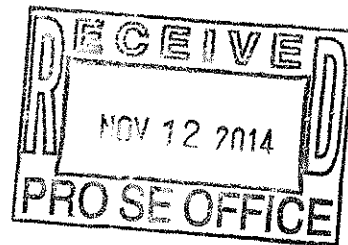


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



Ann Margaret Legra

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

**COMPLAINT  
FOR EMPLOYMENT  
DISCRIMINATION**

Dawn Boursiquot and the NYC  
Board of Education of the City  
School District of the City of New York.

Jury Trial: ☒ Yes ☐ No  
(check one)

(In the space above enter the full name(s) of the defendant(s).  
If you cannot fit the names of all of the defendants in the space  
provided, please write "see attached" in the space above and  
attach an additional sheet of paper with the full list of names.  
Typically, the company or organization named in your charge  
to the Equal Employment Opportunity Commission should be  
named as a defendant. Addresses should not be included here.)

14 CV 9245

This action is brought for discrimination in employment pursuant to: (check only those that apply)

X

Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

**NOTE:** In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

X

Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634.

**NOTE:** In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.

X

Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117.

**NOTE:** In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

X

New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

X

New York City Human Rights Law, N.Y. City Admin. Code §§ 8-101 to 131 (actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status).

X

X

Retaliation.

Other acts (specify):

Harassment

**Note:** Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

B. It is my best recollection that the alleged discriminatory acts occurred on: 2011-2012-2013-2014  
Date(s) school  
years.

C. I believe that defendant(s) (check one):

X

is still committing these acts against me.

is not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check only those that apply and explain):

☒

race

Hispanic☐

color

☒

gender/sex

Female☒

religion

Christian☒

national origin

Cuban, Puerto Rican☒

age.

My date of birth is 03-27-70 (Give your date of birth only if you are asserting a claim of age discrimination.)☒

disability or perceived disability,

asthma

(specify)

E. The facts of my case are as follow (attach additional sheets as necessary):

Violation of state city Civil Rights acts.  
Age discrimination act, Americans with  
disabilities act, and Equal pay act.

**Note:** As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights or the New York City Commission on Human Rights.

### III. Exhaustion of Federal Administrative Remedies:

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding defendant's alleged discriminatory conduct on: June 16, 2014 (Date).

## B. The Equal Employment Opportunity Commission (check one):

☐ has not issued a Notice of Right to Sue letter.  
☒ issued a Notice of Right to Sue letter, which I received on \_\_\_\_\_ (Date).

*Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.*

## C. Only litigants alleging age discrimination must answer this Question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (check one):

☐ 60 days or more have elapsed.  
☒ less than 60 days have elapsed.

## IV. Relief:

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs, as follows: \_\_\_\_\_

\_\_\_\_\_  
 (Describe relief sought, including amount of damages, if any, and the basis for such relief.)

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 12<sup>th</sup> day of November, 20 14

Signature of Plaintiff

Address

[Signature]  
1214 15<sup>th</sup> St Floor 2  
FORT LEE, NJ  
07024

Telephone Number

Fax Number (if you have one)

(917) 862-7932

EEOC Form 161 (11/09)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Ann Legra**  
**1214 15th St**  
**2nd Floor**  
**Ft Lee, NJ 07024**

From: **New York District Office**  
**33 Whitehall Street**  
**5th Floor**  
**New York, NY 10004**

☐ On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

Telephone No.

EEOC Charge No.

EEOC Representative

**John Douglass,**  
**Supervisory Investigator**

(212) 336-3765

846-2014-22758

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years before you file suit may not be collectible.**

On behalf of the Commission

*Kevin J. Berry*

**Kevin J. Berry,**  
**District Director**

8/6/14

(Date Mailed)

Enclosures(s)

cc:

**Robin Singer, Esq.**  
**Associate Counsel - Office of Legal Services**

The reasons for my claim of employment discrimination are as follows:

- The principal, Dawn Boursiquet and the assistant principal Kevin Goodman,
  - a) created a hostile, difficult, intolerable working environment.
  - b) Targeted my pay. By making mistakes in the calculations of attendance, vacation pay, support payments and accumulation of inaccurate attendance codes into cumulative attendance reserve records.
  - c) discrimination against my disability as not providing me with the proper accommodation as stated in my accommodation decision. Excessive inquiries regarding my medical records to my physicians
  - d) Used threats and derogatory language creating a hostile and offensive work environment. Harassed and threatened me during the 2011-2012 and 2012-2013 school years.

Nov 31, 2013 - Left home early due to virus. Mr. Kevin Goodman covered my class. He asked me for lesson plans. He never returned my lesson planning composition book.

February 7, 2013 - Mr. Goodman covered and gave a substitute teacher to all of the first grade teachers with the exception of myself. Wrote a letter to Mr. Goodman.  
February 17, 2013

Sept. 2013 - Used my classroom for job sites to enhance the work in my classroom.  
June 2013

Sept. 2011 - Given excessive letters to conferences and disciplinary conference. These resulted in the file.  
June 2013

Nov. 5, 2012 - Kevin Goodman  
Dec. 13, 2012 - Disciplinary letter to file.  
Jan. 15, 2013 - Disciplinary letter from Mr. Goodman  
Jan. 16, 2013 - Disciplinary meeting from Mr. Goodman  
January 18, 2013 - pre-observation conference scheduling lettering Mr. Goodman.  
Jan. 23, 2013 - pre-observation conference by Mr. Goodman

THE UNIVERSITY OF THE STATE OF NEW YORK  
THE STATE EDUCATION DEPARTMENT  
TEACHER TENURE HEARING UNIT

14 CV 9245

In the Matter of the Disciplinary Proceeding between

THE BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK a/k/a THE NEW YORK CITY DEPARTMENT OF EDUCATION ("DOE"),

REVISED  
AWARD OF  
EUGENE S. GINSBERG  
HEARING OFFICER

Complainant-Employer,

- against -

ANN LEGRA,

Respondent-Tenured Teacher-Employee.

Pursuant to Education Law Section 3020-a

-----X

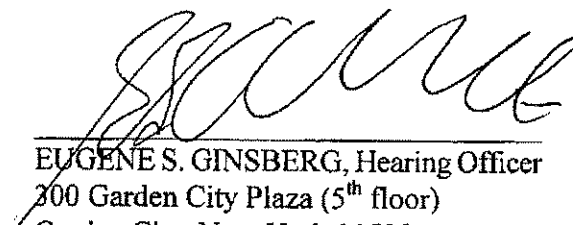
**AWARD**

I, the undersigned Hearing Officer, having been appointed, reviewed the Specifications, heard the proofs of the parties, carefully considered the evidence and arguments presented, do hereby Award as follows:

Teacher, Ann Legra, is suspended for forty-five (45) days, without pay, and

I retain jurisdiction to consider and determine any dispute of the parties arising from the foregoing.

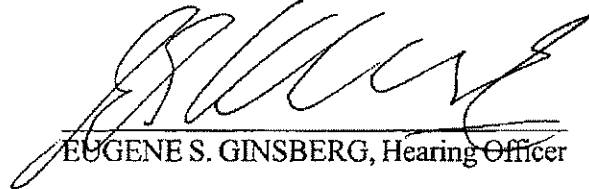
Date: May 14, 2013

  
EUGENE S. GINSBERG, Hearing Officer  
300 Garden City Plaza (5<sup>th</sup> floor)  
Garden City, New York 11530  
(516) 746-9307



~~Case 1:14-cv-09245-JGK Document 1 Filed 11/12/14 Page 8 of 124~~  
I, Eugene S. Ginsberg do hereby affirm that I am the Hearing Officer in the foregoing matter and that this document, which I have executed on this date, is my Revised Award, issued in compliance with all applicable laws, rules and agreements.

Date: May 14, 2014

  
EUGENE S. GINSBERG, Hearing Officer



THE UNIVERSITY OF THE STATE OF NEW YORK  
THE STATE EDUCATION DEPARTMENT  
TEACHER TENURE HEARING UNIT

-----X  
In the Matter of the Disciplinary Proceeding between

SED Case Number: 23257

THE BOARD OF EDUCATION OF THE CITY SCHOOL  
DISTRICT OF THE CITY OF NEW YORK a/k/a THE  
NEW YORK CITY DEPARTMENT OF EDUCATION  
("DOE"),

**REVISED  
OPINION OF  
EUGENE S. GINSBERG  
HEARING OFFICER**

Complainant-Employer,

- against -

ANN LEGRA,

Respondent-Tenured Teacher-Employee.

Pursuant to Education Law Section 3020-a

-----X  
**APPEARANCES:**

**For the DOE:**

Courtenaye Jackson-Chase, General Counsel  
By: Denice M. Szekely, Esq.

**For United Federation of Teachers, Local 2, AFT, AFL-CIO ("UFT")**

Richard E. Casagrande, General Counsel  
By: Michael J. DelPiano, Esq.

**Hearings:**

Held at DOE, 49-51 Chambers Street, New York, New York 10007 on: November 26 (Pre-Hearing Conference), December 13 and 16, 2013; January 13, 16, 21, 22, 24 and 27, February 10, 11, 14, 24, 26 and 28, March 3, and 5, 2014.

**Post Hearing Submissions:**

From UFT – March 5 and 12, 2014 – Memorandum and cases.

From DOE – March 11, 2014 – cases.

**Hearing Closed**

March 20, 2014 upon receipt of final copy of transcript ("T").

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Ms. Clare Carroll  
May 9, 2014  
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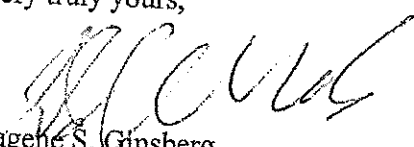
The penalty now conforms to Education Law §3020-a4 (Post hearing procedures) "a" which includes:

In those cases where a penalty is imposed, such penalty may be a written reprimand, a fine, suspension for a fixed time without pay, or dismissal.

I understand you will be able to submit the Revised Opinion and Award in TEACH. I could not because it was "closed".

Your cooperation and assistance is much appreciated

Very truly yours,



Eugene S. Ginsberg

ESG/mat  
Attachment  
C. tenure@mail.nysed.gov

**Eugene S. Ginsberg**

Attorney-At-Law  
Arbitrator-Mediator-Fact-Finder

300 Garden City Plaza (5<sup>th</sup> Floor)  
Garden City, New York 11530-3324  
Tel: (516) 746-9307  
Tel: (516) 393-8232

Fax: (516) 393-8282  
E-Mail: [Esginsberg@aol.com](mailto:Esginsberg@aol.com)  
Website: [eugeneginsberg.com](http://eugeneginsberg.com)

May 15, 2014

via e-mail [ccarroll@mail.nysed.gov](mailto:ccarroll@mail.nysed.gov)

Ms. Clare Carroll  
Education Finance Specialist I  
NYS Education Department  
OSPRA Unit/Teacher Tenure Unit  
89 Washington Avenue, Room 981 EBA  
Albany, New York 12234

**Re: Revised Opinion and Award  
Ann M. Legra  
SED Case No. 23257**

Dear Ms. Carroll:

Pursuant to our telephone conversation today, sent herewith is a Revised Opinion (188 pages) and a Revised Award (2 pages) dated May 14, 2014.

These are to replace the Opinion and Award, dated May 8, 2014, submitted via TEACH.

The changes are:

A. In the Opinion, on page 1 - The addition of "Revised" and on page 188 - the deletion of reference to "fine", increase of suspension from thirty (30) to forty-five (45) days and change of date to May 14, 2014.

B. In the Award, the addition of "Revised", deletion of references to "fine" and change of date as May 14, 2014.

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## **SPECIFICATIONS**

### **INTRODUCTION**

The New York City Department of education brings this action, pursuant to Education law §3020-a, against Ann Legra, for her failures in the nature of incompetent and inefficient service, neglect of duty, insubordination, unwillingness and/or inability to follow procedures and carry out normal duties, and engaging in misconduct, during the...2011-2012 and 2012-2013 school years. Ann Legra (hereinafter referred to as the "Respondent") under file number 2201183...entered the New York City Department of Education in 1990. Respondent is a tenured teacher assigned to PS 173, located at 306 For Washington Avenue, New York, New York within District 6, and holds a "Common Branches Pre K-6" license.

- 1) During the 2011-2012, and 2012-2013 academic years, Respondent failed to properly, adequately and/or effectively plan and/or execute lessons, as observed on each of the following dates.
  - a. May 9, 2012;
  - b. November 30, 2012;
  - c. February 1, 2013;
  - d. March 21, 2013; and
  - e. June 4, 2013.

(At the Pre-Hearing Conference counsel for the Parties agreed to delete referenced to the 2010-2011 academic year, numbers 2, 3 and 4.)

- 5) Respondent demonstrated a lack of professionalism and/or neglected her duties, in that she failed to timely, completely and/or properly conduct and/or maintain running records, as referenced in letter dated June 22, 2012.
- 6) Respondent demonstrated a lack of professional fitness, neglected her duties, and/or used poor judgment, in that Respondent failed to timely, properly, adequately and/or effectively supervise students in her charge during the 2012-2013 academic year.
- 7) Respondent demonstrated a lack of professionalism and/or neglected her duties in that she failed to timely, properly, adequately, and/or effectively plan and/or submit lesson plans during the 2012-2013 academic year.

- 8) Respondent demonstrated a lack of professionalism and/or neglected her duties, in that she failed to timely, completely and/or properly display and/or update her classroom environment during the 2012-2013 academic year.
- 9) Respondent was excessively late and/or absent during the 2012-2013 academic year.
- 10) During the...2011-2012 and 2012-2013 academic years, Respondent failed to attend and/or accept professional development and assistance meetings with supervisors, and/or accept and/or heed advice, counsel, instruction, remedial professional development and/or recommendations regarding:
  - a. The elements of effective lesson planning/execution.
  - b. Classroom management; and
  - c. Production/maintenance of required records/documents.

THE FOREGOING CONSTITUTES:

1. Just cause for disciplinary action under Education Law §3020-a;
2. Insubordination;
3. Incompetence and/or inefficient service;
4. Conduct prejudicial to the good order, efficiency or discipline of the service;
5. Conduct unbecoming Respondent's position or conduct prejudicial to the good order, efficiency, or discipline of the service;
6. Substantial cause rendering Respondent unfit to properly perform obligations to the service;
7. Misconduct;
8. Neglect of duty; and
9. Just cause for termination.

DATED: October 9, 2013

**APPOINTMENT AND BACKGROUND**

On November 12, 2013 I was appointed as the Hearing Officer for this case.

At the Pre-Hearing, in person, conference, on November 26, 2013 Counsel for DOE consented to the motion of UFT Counsel to dismiss references related to the 2010-2011 academic year. This resulted in deletion of specifications 2, 3 and 4 and a reference in number 10, thereto.

During the hearing the following Exhibits were submitted and accepted into evidence.

**EXHIBITS**

**JOINT**

1. Agreement between The Board of Education of the City School District of the City of New York, and United Federation of Teachers Local 2, American Federation of Teachers, AFL-CIO, covering Teachers – October 13, 2007 – October 31, 2009, including Appendices A through L, (166 pages), (Collective Bargaining Agreement, or “CBA”).
2. June 27, 2008 letter to Chancellor Joel I. Klein from President of UFT, Randi Weingarten (5 pages).
3. April 15, 2010 letter to Michael Mulgrew, President of UFT, from Chancellor Joel I. Klein (8 pages).

**DOE**

1. Specifications, dated October 9, 2013 (3 pages).
2. Bill of Particulars, dated October 9, 2013 (5 pages).
3. June 21, 2012 Observation (on May 9, 2012) by Principal Dawn J. Boursiquot (3).
4. June 22, 2012 Annual Professional Performance Review and Report, for period 9/6/2011 to 6/30/2012 by Principal Dawn J. Boursiquot (2 pages).
5. December 17, 2012 Observation (on November 30, 2012) by Principal Dawn J. Boursiquot, with Receipt (4 pages).
6. June 21, 2013 Observation (on June 4, 2013) by Principal Dawn J. Boursiquot and Assistant Principal Kevin Goodman (5 pages).
7. June 17, 2013 letter to Respondent from Principal Dawn J. Boursiquot, with ten pages of attachments (12 pages).
8. June 21, 2013 Annual Professional Performance Review and Report, for period 9/4/2012 to 6/30/2013, by Principal Dawn J. Boursiquot (2 pages).
9. September 5, 2012 agenda for Faculty Meeting, with attendance sheet (2 pages).
10. February 7, 2013 letter to Classroom Teachers from Principal Dawn J. Boursiquot, with Receipt (2 pages).
12. November 18, 2011 letter to Teachers re: Portfolio Components from Assistant Principal Kevin Goodman (and others) (2 pages).
13. February 2012 memo to Respondent from Principal Dawn J. Boursiquot.
14. October 19, 2012 Agenda for Grade 1 Math Meeting.
15. January 17, 2013 memo to Respondent regarding visit.
16. Package of “The Week Ahead” memo’s to PS 173 Community, from 9/11/2011 – 6/12/2012 (70 pages).
17. January 25, 2012 e-mail from Assistant Principal Kevin Goodman to Respondent (2 pages).
18. June 22, 2012 letter from Assistant Principal Kevin Goodman to Respondent.
- 19.A. February 1, 2013 letter to Respondent from Assistant Principal Kevin Goodman.
- B. February 4, 2013 e-mail to Respondent from Assistant Principal Kevin Goodman.
- C. Observation of 2/1/2013 by Assistant Principal Kevin Goodman (5 pages).
20. April 10, 2013 Observation of 3/21/2013 by Assistant Principal Kevin Goodman (4 pages).

- 21.A. January 15, 2013 letter to Respondent from Assistant Principal Kevin Goodman.
- B. January 22, 2013 letter to Respondent from Assistant Principal Kevin Goodman.
- 22. September 22, 2011 e-mail to Respondent (and others) from Assistant Principal Kevin Goodman (2 pages).
- 23. September 28, 2011 time period sheets (log) to Respondent.
- 24. November 8, 2011 Class Environment Checklist draft.
- 28. May 7, 2012 letter to K-2 Teachers from Assistant Principal Kevin Goodman.
- 29. October 2012 letter to Teachers from Assistant Principal Kevin Goodman.
- 30. November 6, 2012 schedule and attendance sheet (2 pages).
- 31. November 13, 2012 letter to Faculty and Staff from Assistant Principal Kevin Goodman (3 pages).
- 32. December 14, 2012 letter to Respondent from Assistant Principal Kevin Goodman.
- 33. January 17, 2013 agenda and attendance sheet for Grade 1 meeting.
- 34. February 11, 2013 e-mail to Respondent from Assistant Principal Kevin Goodman (2 pages).
- 35. May 23, 2013 Grade 1 Agenda with attendance sheet (2 pages).
- 36. Undated "Big Ideas to Hold on to..."
- 38. October 10, 2012 Planning meeting notes.
- 39. January 31, 2013 Agenda for 1<sup>st</sup> Grade Literacy meeting.
- 40. January 17, 2013 Notes (2 pages).
- 41. February 12, 2013 Notes (2 pages).
- 42. February 2013 Demo lesson report.
- 44. November 9, 2012 Record Receipt Confirmation.
- 45. October 23, 2013 copy of Records Receipt Confirmation.
- 46. May 7, 2013 e-mail to Respondent from Office of Assessment.
- 47. 9/5/2000 Summary of Changes to Regulation, #C-601 (9 pages).
- 48. May 8, 2013 e-mail to Principal Dawn J. Boursiquot from Viv Ellis.

#### UFT

- R1. September 13, 2010 The Week Ahead to Staff (3 pages).
- R3. December 2, 2011 Kindergarten Component list.
- R4. February 6, 2012 revised assessment schedule to all Kindergarten Teachers from Tania Serratty.
- R5. February 13, 2013 e-mail from Respondent to Assistant Principal Kevin Goodman and February 11, 2013 e-mail from Assistant Principal Kevin Goodman to Respondent.
- R6. February 4, 2013 e-mail from Respondent to Assistant Principal Kevin Goodman and January 18, 2013 e-mail from Assistant Principal Kevin Goodman to Respondent.
- R7. February 9, 2013 e-mail from Respondent to Assistant Principal Kevin Goodman and January 18, 2013 e-mail from Assistant Principal Kevin Goodman to Respondent [same as in R6.].
- R8. June 14, 2013 e-mail from Principal Dawn J. Boursiquot to Assistant Principal Kevin Goodman and June 13, 2013 e-mail from Respondent to Principal Dawn J. Boursiquot (2 pages).
- R9. December 16, 2012 e-mail from Principal Dawn J. Boursiquot to Respondent and December 14, 2012 e-mail from Respondent to Principal Dawn J. Boursiquot.
- R10. November 12, 2012 e-mail from Respondent to Principal Dawn J. Boursiquot.

- R11. January 22, 2013 letter to Assistant Principal Kevin Goodman from Respondent.
- R12. April 11, 2013 e-mails to Assistant Principal Kevin Goodman from Respondent (2 pages).
- R13. 2012-2013 School Survey Report (15 pages).
- R14. May 5, 2012 e-mail from Assistant Principal Kevin Goodman to Monique Knight.
- R15. February 4, 2013 e-mail from Respondent to Assistant Principal Kevin Goodman and January 18, 2013 e-mail from Assistant Principal Kevin Goodman to Respondent.
- R16. February 4, 2013 e-mail from Respondent to Mayra Cruz.
- R17. Kindergarten Data Report (2 pages).
- R19. January 18, 2013 letter from Assistant Principal Kevin Goodman and Respondent.
- R20. Comprehensive Inquiry Report for Jayleen, dated March 18 and 20, 2013 by Respondent (2 pages).
- R21. Comprehensive Inquiry Report for Respondent, dated March 20, 2013 by Respondent (3 pages).
- R22. May 20, 2013 letter to Principal Dawn J. Boursiquot from Respondent (2 pages).
- R23. Comprehensive Injury Report for Respondent, dated May 21, 2013 by Respondent (2 pages).
- R24. Running Record Placement Chart of Respondent.
- R25. Sight Word Placement Chart of Respondent – March, April and May, 2013.
- R26. December 2012 Sight Word Placement Chart of Respondent.
- R27. December 2012 Running Record Placement Chart of Respondent.
- R28. First Grade Performance Assessment Data of Four Tables (4 pages).
- R29. June 2013 Class Profile of Respondent (2 pages).
- R30.A. January 8, 2013 Absence Request of Respondent with rejection by Principal Dawn J. Boursiquot.
- B. January 22, 2013 Absence Request of Respondent with rejection by Principal Dawn J. Boursiquot.
- C. January 28, 2013 Medical letter from Ana Guerra, M.D. (Manhattan Physicians Group) for Respondent.
- D. February 21, 2013 Medical note from (illegible) for a doctor's appointment, (Manhattan Physicians Group).
- E. Summons of Jose Morel for February 28, 2013 appearance before Support Magistrate in Family Court.
- F. March 1, 2013 Medical note from (illegible) for a nurse visit (Manhattan Physicians Group) for Respondent.
- H. May 6, 2013 e-mail from Office of Assessment to Respondent regarding attendance at ELA Section B.
- I. May 14, 2013 Medical letter from Tamara Pinkhasova, M.D. (Manhattan Physicians Group) for Respondent.
- J. Summons of Jose Nelson Morel for June 3, 2013 appearance before Support Magistrate in Family Court.
- K. June 12, 2013 Medical note from Trisha Samuel, R.N. coordinator (Manhattan Physicians Group) for Respondent.
- R31. June 3, 2013 Mathematics Workshop outline of Respondent (2 pages).
- R32. May 9, 2012 Reader's Workshop outline of Respondent (3 pages).
- R33. February 1, 2013 letter from Assistant Principal Kevin Goodman to Respondent.
- R34. Amended February 4, 2013 letter from Assistant Principal Kevin Goodman to Respondent.
- R35. April 12, 2013 e-mail from Principal Dawn J. Boursiquot to Respondent.

- R36. On My Own questions.
- R37.A. Monday, May 20 and Tuesday, May 21 handwritten lesson plans (4 pages).
- B. May 2013 and June 2013 First Grade calendar sheets (2 pages).
- R39. June 18, 2013 e-mail to Principal Dawn J. Boursiquot from Respondent.
- R42.A. March 7, 2013 e-mail to Respondent from Office of Assessment regarding Scoring Session A – ELA on April 22-23, April 29 – May 1.
- B. March 7, 2013 e-mail to Respondent from Office of Assessment regarding Scoring Sessions B-ELA on May 2-May 3, May 6-May 8.

As reflected, on the first page, both parties were represented by counsel in this proceeding. They had a full and fair opportunity to offer documentary and testimonial evidence, cross-examine witnesses, argue their respective positions, as well as submit court, arbitral and hearing officer decisions, opinions and awards.

The foregoing have been fully considered in the preparation and issuance of this opinion and award.

The DOE called as witnesses: Dawn Boursiquot, Principal; Tania Serratty, Math Coach; Kevin Goodman, Assistant Principal; Nilda Francisco, Literacy Coach; Marc Bush, Director New York State Assessment; and Yris Vargas, School Secretary.

The UFT called as witnesses: Jose A. Rodriguez, UFT Chapter Leader and ESL teacher; and Respondent, Ann Legra.

The closing arguments of Counsel were presented on March 5, 2014 and are reflected in the Transcript for that hearing day, ending with Page 1902.

#### **EVIDENCE**

A. The DOE's evidence relating to the five observations in Specification "1)" [page 6, above], are:

a. May 9, 2012 - DOE 3 an Observation of a kindergarten class and testimony of Principal Boursiquot in support.



The Principal testified her "first" concern "was her ability to manage the classroom and to assure that the children were safe," and her second concern "was her instructional practices inside the classroom" [T55.L24 and T56.L2]. She testified that the areas of concern of student safety, classroom environment and instruction were not stated in any priority of order [T305.L11]. This was illustrated by her "lack of planning, to delivery coherent instructions to students" [T58.L23] and "an instance where she did not, was unable to provide a lesson plan" [T59.L17] which needed "to be in writing" [T60.L7].

Referencing her Observation (DOE 3) she also testified "The teacher had not assigned partners to children and it took away time from instruction" [T106.L10].

Well, one thing was that, you know, there was no partners, you know, and that's really [T116.L24]. Because during every workshop model, instructions, instructional piece, there is going to be an opportunity where the children are going to be asked to turn and talk to their partner to discuss certain questions that might be posed, okay? So that was one big indicator, that was one thing that I noted [T116.L24, T117.L2].

"The plan that she submitted, right, indicated that it would be a shared reading" [T108.L2] "the children all have to have a copy of the book, which they did not" [L7], it could be "only one copy of the book" [L21], "there was confusion about the distinction between read aloud, a guided reading and a shared reading" [T111.L9]. and "this was something that I certainly would not have expected" [L17].

The Observation (DOE 3) included, on page 2

Then you gather 5 students at the rug and take a small 6"X6" Xeroxed book and hold it up to do, what appears to be a read-aloud or perhaps guided reading. Not all of the students had a copy of the *book*. The readers you were with are level B readers. Your lesson plan indicated Shared Reading.



The Principal testified "Level B readers are readers who are not really decoding words, all right. Their strategy for figuring out words is mostly based on memory and because the books have a lot of repetition" [T112.L24, T113.L2]

The Principal testified:

...it would certainly have an adverse impact if done improperly, if you're not providing strategies or directing children properly in a guided reading, they're not going to move up in reading levels. If they're not matched up with the correct books, they're not going to go up in reading levels. And if you're just reading a book to them aloud with no, you know, in the name of doing a read aloud with no strategy or skill identified, then it's almost for no purpose, other than just hearing a story. [T112.L6]

...I could not identify where children were learning, when they were set off to do, they didn't seem to know what they were supposed to do. And those factors helped me make a decision that there was no teaching really happening and it was unsatisfactory teaching with what was done...

That there was no learning really happening in that classroom. The children were already familiar with a story. They didn't really know what they had to do. And I don't know the value of what Ms. Legra was doing with the children. [T121.L6, 17]

The Principal testified she "first became concerned about Ms. Legra's performance...(f)rom the very beginning of the school year" [T214.L11] and the "formal observation...was conducted May 9<sup>th</sup>...the written report was...completed on June 21<sup>st</sup>...(and) presented...June 25<sup>th</sup>" [T215.L6, 16, 20] "essentially the end of the school year". [T216.L12]

The Principal testified during cross examination: that her "main concern about Ms. Legra was her ability to manage her classroom and insure children were safe" [T203.L4]...she did not issue any letters covered in these proceedings that had anything to do with what was going on in her classroom [T205.L6, 12, 17]...her "classroom wasn't always unsafe [T206.L17]

The Principal's testimony on cross examination also included

233

6 Q. You also talked about the children's  
7 behavior in the class that day. You said  
8 essentially there was some commotion and confusion  
9 with the students. Correct?

10 A. Yes.

11 Q. And you also said that Ann, excuse me,  
12 Ms. Legra made attempts to try to quiet the children  
13 down.

14 A. Yes.

15 Q. And but the children who are  
16 kindergarteners didn't listen to her immediately,  
17 correct?

18 A. Correct.

19 Q. Do kindergarteners always become quiet  
20 immediately when they're told to quiet down?

21 A. Usually in our school, yes. Yes.

22 Q. Usually they immediately quiet down?

23 A. Yes.

24 Q. Is there-

25 A. [Interposing] Because-

234

2 Q. -never a chance that the children may  
3 take a couple of times to get them to quiet down?

4 A. By May of kindergarten, the children  
5 have routines in place and they have a relationship  
6 with their teacher, that they know that when the  
7 teacher is speaking, they've got to calm down.

8 Q. So it never happens. It never happens  
9 that the children always calm down and quiet down when  
10 their teacher tells them to.

11 A. I'm sorry, is that a question? I  
12 mean, can you repeat that?

13 Q. I'm asking, so you're saying that it  
14 never happens, that children don't quiet down  
15 immediately.

16 A. I didn't say it never happens.

17 Q. So it's possible that this happens  
18 often.

19 A. No, it's not. It's possible that it  
20 could happen. It doesn't-it's not possible that it  
21 happens often. By May in most classrooms, in  
22 kindergarten, in this school, the-in my school, the  
23 children know that when they're at a certain area and  
24 they're receiving instruction, they're listening to

25 their teacher.

235

2 Q. But even the best teacher may have to  
3 tell their children to quiet down more than once.  
4 Isn't that correct?

5 A. That's true, yes.

6 Q. So it's not automatic that someone  
7 doesn't have control over their classroom if the  
8 children don't quiet down immediately.

9 A. No, that's not-no. Okay.

10 Q. You also stated that because it wasn't  
11 an airtight lesson by Ms. Legra, that that's what  
12 caused the students to misbehave, correct?

13 A. That's part of it, yes.

14 Q. Even with an airtight lesson by the  
15 greatest teacher that's ever existed, is it possible  
16 that kindergarteners still would misbehave?

17 A. It is possible. It is possible

248

2 Q. And you also stated that the students  
3 didn't have assigned partners, correct?

4 A. Correct.

5 Q. Do students always do everything with  
6 their assigned partner?

7 A. No, but they all-all students have  
8 assigned partners in the classrooms in our school.

9 Q. So it's possible that these students  
10 had assigned partners.

11 A. There was no evidence that the  
12 children had assigned partners.

13 Q. But Ms. Legra's assignment to them was  
14 to partner up, not go to their assigned partner,  
15 correct?

16 A. And that creates chaos in the  
17 classroom, because they didn't know who their partner  
18 was, which was what I stated before.

19 Q. But does that mean that they didn't  
20 have assigned partners?

21 A. Exactly.

22 THE HEARING OFFICER: Do I gather you,  
23 you're not talking about the first line on the second  
24 page. And it's your comment about Ms. Legra, she said  
25 to the students, "go back to your seats and work with

249

2 a partner and try to figure out what your characters  
 3 are thinking." That's the reference you're talking.  
 4 about, that's where the partner comes in. And you're  
 5 taking that to mean they should have had an assigned  
 6 partner and should have worked with the partner. So  
 7 I gather that's your reading of-  
 8 THE WITNESS: [Interposing] No, there's two  
 9 different instances here where we're talking about  
 10 partners. One is that when they were at the rug and  
 11 she was handing out the bubble sticks-  
 12 THE HEARING OFFICER: [Interposing] Right.  
 13 THE WITNESS: -or whatever. And then one  
 14 when they went back to their seats. Partners usually  
 15 are at the same table.  
 16 THE HEARING OFFICER: And so to you the  
 17 phrase "partner" means the prior assigned partner, as  
 18 opposed to what counsel seems to be asking, go work  
 19 with "a partner," not necessarily "the partner." Am I  
 20 understanding the difference that you're making here?  
 21 MR. DEL PIANO: Yes.  
 22 THE HEARING OFFICER: Okay, all right.  
 23 Thank you.

On May 5, 2012 Assistant Principal Goodman stated in an e-mail:

The week following your visit on the 30" was eventful, with some K teachers *finally* being called out for neglecting their professional obligations. The "crackdown" will continue this week [R14].

This Exhibit was admitted over objection by DOE [T1057-1067]. The record contains no rebuttal to it and I consider the contents accurate.

Counsel for Respondent argued

1819

8 ...that the observation occurred four  
 9 days after Respondent's Exhibit 14, when they decided  
 10 that there was going to be a crackdown. Clearly there  
 11 was a predisposition to find that Ms. Legra wouldn't  
 12 do a good job on this lesson.

Counsel for the DOE argued

1874

24 ...Now  
25 the crackdown on teachers that is noted in

1875

2 Respondent's Exhibit 14, I believe, number one, Mr.  
3 Goodman was never asked on cross-examination about  
4 that email. Number two, the email states that he is  
5 going to call teachers out for their professional--for  
6 neglecting their professional duties. That is his job  
7 as a supervisor.

Respondent's testimony on direct examination included

1131

9 Q. I want to turn your attention to  
10 partners in your classroom. What if any requirement  
11 is there for students to have assigned partners in  
12 your classroom?

13 A. There are various ways that you can  
14 use partners, especially during the literacy block.  
15 Partners will do various types of reading. They can  
16 do an echo reading. They can do a teacher reading.  
17 There are various ways to develop literacy skills.

18 Q. What if any rules are there at PS 173  
19 about having an assigned partner for the school year?

20 A. There aren't any.

21 Q. What is the ability of students in  
22 your class during the '11-'12 school year to change  
23 partners?

24 A. I will change them all the time.

25 Q. And what if anything did you do to

1132

2 determine which students would be partners with each  
3 other?

4 A. In different ways I would have to at  
5 this time-children that worked with me on a one-to-  
6 one basis were not at the level that they were  
7 expected to be according to their educational plan.  
8 So because I was getting students that were  
9 challenging I needed to place these someone that was a  
10 higher reading level for example.

11 Q. And when if ever would you allow  
12 students to select their own partners?

13 A. If for any reason they weren't getting

14 along, which happens, and they wanted to read with  
15 someone that maybe was their friend, I would place  
16 them with that-with that child. If I thought that  
17 they were-there would be any benefit from a  
18 partnership, maybe competitive, that I knew that they  
19 were competitive partnership, then that would happen.

20 Q. Do you recall that whether during this  
21 activity your students had to work with an assigned  
22 partner or if they could choose a partner?

23 A. During this activity they had their  
24 assigned partners. They had assigned partners.

25 Q. Would the students have known who

1133

2 their partners were ahead of time?

3 A. There was a chart posted, yes.

4 Q. Do you recall whether you had recently  
5 changed the student partnerships?

6 A. I don't recall.

7 Q. On the second page of Department's  
8 Exhibit 3 there is a sentence that states, "At the  
9 rug, the students crowd around and chaos erupts when  
10 determining partners." Do you know what this is in  
11 reference to?

12 A. Yes. There is always the child that's  
13 going to want to go to their friend for whatever  
14 reason, but that tends to happen a lot in lower  
15 grades. That could have been the possibility. I  
16 don't recall.

17 Q. Do you recall whether there was chaos  
18 erupting at this time?

19 A. Chaos is a very strong word. No,  
20 there wasn't chaos.

21 Q. What was happening during this time  
22 period?

23 A. Well, children had to go back to their  
24 seats to work with a partner in order to look at the  
25 expressions, the pictures, to try to figure out and

1134

2 talk amongst each other what their character in their  
3 books were thinking.

4 Q. And what purpose, if any, did you have  
5 for having the students do this task with a partner?

6 A. Well, if there was an error a  
7 correction would occur. And they also had the

8 opportunity to talk about what they were supposed to-  
9 what the task was.

1138

11 Q. Do you recall what other students  
12 in the classroom were supposed to be doing during this  
13 time?

14 A. During-well, they were working with  
15 partners.

16 Q. What if anything would you have done  
17 to discipline students walking around the room?

18 A. Well, I would have given them  
19 warnings. The first, second, three strikes you're  
20 out. I don't think anyone would have been walking  
21 around the room at this time.

22 Q. Looking at the paragraph while you  
23 were at the carpet, Ms. Boursiquot had written that  
24 students were off task and roaming around the room,  
25 Talking and noisy. What is your recollection of what

1139

2 the students were doing during this time period?

3 A. The students were working with their  
4 partner.

5 Q. Do you recall whether they were  
6 roaming around the room?

7 A. No, they were not.

8 Q. Looking at the second bullet point in  
9 the area instruction for improvement, it references  
10 professional development that you had received during  
11 the-well, it just references professional development  
12 that you had received. Do you recall whether you had  
13 any one-on-one professional development during the  
14 2011-2012 school year?

15 A. Yes.

16 Q. And what do you recall?

17 A. I recall that after a grade meeting  
18 with Monique she went into my classroom during an-  
19 after lunch, when it was not literacy time. She went  
20 in after lunch and showed me how to conduct notes on a  
21 particular student.

1140

2 A. Well, you keep certain records on  
3 their literacy of where the child is, a deficient  
4 skill that you noticed, and what your next steps would



5 be in correcting that skill while you're working with  
 6 that student or that group.  
 7 Q. Do you recall whether you had any  
 8 individual professional development in the area of  
 9 classroom management during the 2011-2012 school year?  
 10 A. No.  
 11 Q. No you don't recall or no-  
 12 A. [Interposing] no, I do not.  
 13 Q. The last sentence of that bullet point  
 14 states, "I will arrange for more professional  
 15 development in the area of classroom management." Do  
 16 you recall whether you received any professional  
 17 development in the area of classroom management from  
 18 May 9<sup>th</sup>, 2012, through the end of the year?  
 19 A. No, I do not.

b. November 30, 2012 -- DOE 5, an Observation of a first grade class, and the testimony of Principal Boursiquot were submitted in support.

Principal Boursiquot testified: She removed one student who might interrupt the lesson from the class [T127.L7, 22] "to give Ms. Legra every opportunity to demonstrate...her teaching" [T129.L21]; she entered the classroom during the second period during "what should have been the reader's workshop" [T133.L10], it took "an extraordinary long time for the materials to be distributed" [T135.L5]; she did not "Think that Ms. Legra really had a plan to use that book for this lesson...she was not fully prepared for this lesson" [T136.L10, 19]; she "showed a lack of familiarity with the book that she was using to provide this instruction." [T137.L6]; books were not "leveled" [T138.L25]; "children" ...would not be able to complete the task or read the book" [T139.L2, 4]; "there was no routine" [T139.L12]; "it certainly took time, but it also compromised the safety of the children because they're all crowded around, sitting on a carpet and all on the floor like that. So that was not a good thing to have happen" [T139.L21]; "She was just kind of standing there, not really doing anything too much [T140.L20]; she did not "think it was enough planning to make it a seamless lesson and to manage the activities, the various moving and transitions

[T142.L22]; based upon "observation of the children, the time where nothing was being done, the idle time or 'down time' as they say" [T143.L2]; she did not "have a lesson plan for this lesson" [T143.L11]; "the flow of the day"...did not match the plan" [T147.L3]; there were no non-fiction books in their baggies [T148.L21]; and "A lot of the books didn't have the glossary or in the back of the books for them to refer to" [L149.L7];

The Principal testified

150

11 Q. In the next paragraph, you write,  
12 "Your classroom environment overall lacks order and is  
13 void of routines and the instructional supports that  
14 are required." What led you to the opinion that the  
15 overall classroom environment lacks order?

16 A. There were areas where there were  
17 piles of paper. There was a kidney table there or a  
18 kidney is the shape of the table, that had just stacks  
19 of paper. It was disorderly. It was-and there were  
20 no charts hanging, which I said before, or any kind of  
21 instructional tools for children, if you look around  
22 the room.

23 Q. Okay. And what led you to believe  
24 that the classroom was void of routines?

25 A. Just the behavior of the children, yes

151

2 was enough to tell me that.

154

14 Q. Now in the last sentence in this  
15 observation report, you rated the lesson  
16 unsatisfactory?

17 A. Yes.

18 Q. Can you tell us why you gave this  
19 lesson an unsatisfactory rating?

20 A. Because the teaching point was not  
21 made, was not met. And there were many parts of the  
22 lesson and-which I take into consideration classroom  
23 environment, learning, supports and everything, just  
24 all taken into account that it was unsatisfactory.  
25 The children were not able to do what they were asked

155

2 to do.

3 Q. Okay. Now based on your opinion, or  
4 based on your experience, do you have an opinion as to  
5 how much learning took place during the lesson that  
6 you observed on November 30<sup>th</sup>?

7 A. I think well, really none, very little  
8 to none, no.

At the start of the 2012-2013 school year Respondent was assigned to a pre-K class. In early October, over a weekend, referenced in a letter dated October 4, 2012 (not in evidence) she was assigned into a first grade class. [see T243.L10]

A formal Observation was held November 30, 2012 (DOE 5).

Counsel for Respondent argues "I posit that this lesson is also tainted by the fact that Ms. Boursiquot was predisposed to find that Ms. Legra wouldn't do a good job on this lesson" [T1820.L7].

The record reflects that in cross examination the Principal testified

264

24. Q. The other day we were talking about  
25 routines in Ms. Legra's first grade classroom. Is it

265

2 your position that Ms. Legra failed to establish  
3 routines in her first grade class?

4 A. Yes.

5 Q. And just to reflect back, she took  
6 over this class on October 4<sup>th</sup>, 2012?

7 A. Correct

265

17 Q. When Ms. Legra started teaching the  
18 first grade class in October of 2012, did that provide  
19 her with enough time to establish routines in her  
20 class?

21 A. Yeah, she was given an opportunity to  
22 establish routines in the class.

23 Q. And also that there wasn't a-was  
24 there a significant amount of school missed because of

25 vacations during that time period?

266

2 A. During?

3 Q. From the beginning of the 2012-2013  
4 school year to when she took over the class.

5 A. In September, yes.

6 Q. There were vacations related to the,  
7 I'm assuming the Jewish holidays.

8 A. Yes I believe so.

273

9 Q. (Referencing R1) Ms. Boursiquot, could you please read  
10 the sentence starting on the fifth line in the  
11 paragraph that begins with "Extended day." The  
12 sentence begins with, "The first" and read until the  
13 end of the paragraph?

14 A. "The first weeks of the school year  
15 provide a valuable opportunity for setting  
16 expectations that if executed well, will pay huge  
17 dividends throughout the course of the school year."

18 Q. That would include the establishment  
19 of routines in the classroom?

20 A. Yes, and provided that a person is  
21 assigned to a classroom at the beginning of a school  
22 year.

23 Q. So if a person is not assigned to a  
24 classroom at the beginning of the school year, does  
25 that put them at a disadvantage?

274

2 A. Absolutely not, because I would afford  
3 that person an opportunity to establish routines that  
4 were not set, you know, in September. So it starts  
5 when you start.

6 Q. So there's no, you're saying that  
7 there is no disadvantage for someone who doesn't start  
8 at the beginning of the school year with the students?

9 A. With regard to?

10 Q. Setting up routines in their  
11 classroom?

12 A. Yeah, I think teachers are given an  
13 opportunity, no matter when they start, to set up  
14 routines.

282

18 Q. During the 2012-2013 school year, when  
19 did you first become concerned about Ms. Legra's  
20 classroom environment?

21 A. I would say shortly after she took  
22 over the first grade class.

23 Q. In terms of classroom environment is  
24 that limited to the arrangement of desks and school  
25 charts related to curriculum and items of that nature?

283

2 I that what you-

3 A. [Interposing] That's included, yes.

4 Q. What else would you refer to in terms  
5 of school and or excuse me, classroom environment?

6 A. Tidiness of the classroom, making  
7 certain that there are like designated library area.  
8 There's technology in classrooms, as I mentioned  
9 earlier, so that the computers are accessible for  
10 children for use, that the materials are neatly  
11 maintained, that there are portfolios for literacy and  
12 mathematics in a designated area and available for  
13 viewing. And that children are grouped. I-children  
14 are grouped to facilitate workshop model of  
15 instruction.

16 Q. And do you recall when Ms. Legra met  
17 with Ms. Zenos [phonetic] to work on Ms. Legra's  
18 classroom environment?

19 A. The exact date I cannot recall.

20 Q. Do you recall when you assigned Ms.  
21 Zenos to work on, to work together with Ms. Legra  
22 about her classroom environment?

23 A. I believe it was mentioned in one of  
24 the reports, that that would be something as a next  
25 step.

284

23 Q. And at that time, on June 21<sup>st</sup>, 2013,  
24 you stated that you would assign Ms. Zenos to work  
25 with Ms. Legra for the purpose of addressing the

285

2 issues that exist with her classroom environment.

3 A. Correct.

4 Q. And again, just to restate, that was  
5 at the end of the school year for the 2012-2013 school

6 year?

7 A. It was in June.

8 Q. And you said that you had reservations  
9 about Ms. Legra's classroom environment all the way  
10 back in October of 2012?

11 A. Yes.

12 Q. Is there a reason for the delay  
13 between October of 2012 and when you were planning to  
14 assign someone to help her with her classroom  
15 environment?

16 A. No, she received help before then and  
17 it was-and she was called-noted, she was told that  
18 there was issues with the classroom environment in  
19 previous meetings that I've had with her. And the  
20 thing is that it would get straightened up and then it  
21 would unravel to a point where it became messy.

287

16 Q. Approximately how much time in the  
17 school year remained after June 4<sup>th</sup>, 2013?

18 A. Approximately 20 calendar days.

19 Q. And how many of those days would  
20 include instruction?

21 A. I can't recall exactly.

22 Q. And how many school days are there in  
23 the entire year?

24 A. 18, approximately.

290

23 Q. With respect to the Department's  
24 Exhibit 5, which is the observation report dated  
25 December 17<sup>th</sup>, 2012, during that observation, post-

291

2 observation conference Ms. Legra became upset, you  
3 stated.

4 A. Yes I did.

5 Q. And Ms. Legra said something to the  
6 effect of, "since you've been here, it's always  
7 unsatisfactory." Correct?

8 A. Correct.

9 Q. And that was with regard to her  
10 ratings? Is it your understanding that that was in  
11 regard to your rating of her performance?

12 A. For an observation?

13 Q. Correct.

14 A. I would assume that's what she was--  
15 Q. [Interposing] Okay.  
16 A. --referring to.  
17 Q. Were you surprised by Ms. Legra's  
18 comment?  
19 A. I was surprised by Ms. Legra's arm  
20 movement and invisible anger when she said it in  
21 response to a question that I typically asked teachers  
22 when asked, "How do you think it went?"  
23 Q. Had you ever had any prior conflict  
24 with Ms. Legra?  
25 [Pause]

292

2 A. Yes.  
3 Q. Ms. Legra has filed several grievances  
4 against you, correct?  
5 A. From my recollection, yes.  
6 Q. And she also filed a Civil Rights  
7 complaint against you at some point, correct?  
8 A. An OEO complaint.  
9 Q. And for the record, what's OEO?  
10 A. The Office of Equal Opportunity, I  
11 believe.  
12 Q. Is that--that's a New York City  
13 office?  
14 A. I believe it's an office, but then it  
15 was an office within the Department of Education.  
16 Q. Excuse me, that's--  
17 A. [Interposing] IT's the OEO Office.  
18 Q. --what I meant, that's--  
19 A. [Interposing] Okay.  
20 Q. It's a New York City Department of  
21 Education--  
22 A. [Interposing] Office.  
23 Q. --Office, okay. Do you recall when  
24 the most recent grievance was?  
25 A. I'm not sure. I was thinking about

293

2 that. I'm trying to recall, and I'm having difficulty  
3 recalling the most recent one, okay? Maybe there was  
4 one this year.  
5 Q. Was there a grievance hearing--  
6 A. [Interposing] But I'm saying--  
7 Q. --on September 18<sup>th</sup>--



8 A. [Interposing] Yes.  
9 Q. --of 2013?  
10 A. Yes, that's the one.  
11 Q. And just to reflect, these charges  
12 were brought on October 9<sup>th</sup>, 2013? Correct?  
13 A. Yes.  
14 Q. Has the New York State Public  
15 Employment Relations Board ever found you guilty for  
16 retaliating against an employee for using the  
17 grievance procedure?  
18 A. No.  
19 Q. Are you familiar with a person named  
20 Jose Rodriguez (phonetic)?  
21 A. Yes I am.  
22 Q. And did Mr. Rodriguez ever file  
23 complaints against you for retaliation with the New  
24 York State Public Employment Relations Board?  
25 A. Yes.

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2 Q. And on February of 2013, were you  
3 found to have discriminated against Mr. Rodriguez for  
4 utilizing the grievance procedures?  
5 A. Me specifically?  
6 Q. Yes.  
7 A. That's in appeal and it's been  
8 reopened and it's not--  
9 Q. [Interposing] But in February 2013,  
10 were you found guilty of doing that?  
11 A. Was I found guilty? I don't even  
12 quite know how to answer that. Based on a decision  
13 that I received it didn't appear that I was guilty  
14 necessarily specifically, of being, what is it?  
15 Retaliation?  
16 Q. Correct. Was PS 173 found guilty of  
17 retaliating against Mr. Rodriguez for utilizing the  
18 grievance procedure?  
19 A. Again, I don't know if that was the  
20 determination, without having that document in front  
21 of me.

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5 MR. DEL PIANO: Please let the record  
6 reflect that I have shown Department's counsel what  
7 has been...marked  
9 as Respondent's Exhibit 2. (for 1D) Please also let the record

10 reflect that I'm showing Ms. Boursiquot what's been  
 11 marked as Respondent's Exhibit 2 (for 1D).  
 12 Q. Do you recognize that document?  
 13 A. Yes.  
 14 Q. Do you now recall your school, which you are the  
 15 administrator of, and your assistant principals and  
 16 yourself being found guilty of retaliating against Mr.  
 17 Rodriguez for utilizing the grievance procedures?  
 18 A. If that's the language in that, I'm  
 19 going to say yes.  
 20 Q. Okay.

25 THE HEARING OFFICER: Okay. It will stay as 296

2 ID. May I have a short description of it, at least? 297  
 3 Is it--I assume it's a perb decision [phonetic].  
 4 MR. DEL PIANO: It is a perb decision.  
 5 THE HEARING OFFICER: Than you.

21 MR. DEL PIANO: It's case number U-30747.  
 22 The perb ALJ was Cacavas, C-A-C-A-V-A-S.  
 23 MS. SZEKELY: C-A-C-A-V-A-S.  
 24 MR. DEL PIANO: Yeah. And the decision is  
 25 dated February 5<sup>th</sup>, 2013.

On redirect examination of the Principal, she was shown DOE 11 for Identification.  
 It related to a grievance hearing or September 18, 2013 (OLR Case Number 131418, UFT  
 Number M52169).

Principal Borsiquot testified "there was no relationship between "the grievance and  
 the filing of charges in this proceeding [T304.L9] and the grievance decision "was denied"  
 [T304.L2].

The record also reflects that on redirect examination the Principal testified. [T321]

10 But still the--her teaching ability and her  
 11 ability to follow directions for improvement, that  
 12 just seemed not to change. And it was having a big  
 13 impact on the students in her class. I was getting a  
 14 lot of response from parents in terms of wanting their

15 child taken out of the class because they felt that  
16 things like homework wasn't being sent home, that she  
17 was at--the parents noted that she wasn't there a lot.  
18 She wasn't present at work a lot. It just became too  
19 much.

20 And then I had an opportunity over the  
21 course of six years to see how children who she may  
22 have had in her class in an earlier part, and now  
23 they're in upper grades and how they're struggling.  
24 You know, it's--I couldn't do it any longer.

On recross examination, regarding the two letters, dated June 22 and June 25, 2012, on page  
2 of DOE 4, the Principal testified

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6 A. ...I said that so she could reflect,  
7 my purpose was not for her to implement it next school  
8 year, it would be to implement it immediately, but to  
9 also reflect on the instructions for improvement for  
10 in looking forward to the next school year.

11 Q. But there really wasn't much time at  
12 all left in the 2011-2012 school year for her to  
13 actually implement those directives contained in that  
14 letter. Correct?

15 A. The directives contained in that  
16 letter were--needed to have immediate action. They--  
17 so I would expect them to be immediately implemented.

18 Q. Approximately how many days were left  
19 in the 2011-2012 school year when those letters were  
20 issued?

324

9 Q. But approximately how many school days  
10 would be left--

11 A. [Interposing] Oh.

12 Q. --on June 22<sup>nd</sup>, 2012?

13 A. For that year, I can't remember  
14 exactly, but I would say at least five to six.

15 Q. And--

16 A. [Interposing] Maybe five.

17 Q. And possibly at the most seven?

18 Correct?

19 A. Okay.

On direct examination the Respondent testified

1169

18 Q. Ms. Boursiquot testified that you  
19 became belligerent at the end of this post-observation  
20 conference. What is your recollection of your--of  
21 what you did during this post-observation conference?  
22 A. I told her that she had never said  
23 anything positive about my teaching and that she never  
24 gave any pointers that I could reference and use.  
25 Q. What frustrations if any did you have

1170

2 about this post-observation conference?  
3 A. I knew I was a target after I heard  
4 Mr. Goodman's reference to me going to the way of Ms.  
5 O'Neil.  
6 Q. Do you--what if anything did Mr.  
7 Goodman do after making the reference of going the way  
8 of Ms. O'Neil?  
9 A. He said he would go bye-bye and he  
10 went like this with his fingers.  
11 Q. Can you please describe what your're--  
12 what you're doing?  
13 A. I'm waiving my fingers in a motion of  
14 saying bye-bye.

1171

2 THE WITNESS: Well, I knew I was a target  
3 after Mr. Goodman told me that I would go the way of  
4 Ms. O'Neil.  
5 THE HEARING OFFICER: The "bye-bye," right.  
6 THE WITNESS: The "Bye-bye." And when I  
7 asked what--no, when I asked him what was that, and he  
8 just waived and he said, "bye-bye."...

18 Q. And what is Respondent's Exhibit 16?  
19 A. It is an email that I--that I send to  
20 Myra Cruz.  
21 Q. And do you know--do you recognize the  
22 date that this email was sent?  
23 A. Yes. It was sent on Monday, February  
24 4<sup>th</sup>.  
25 Q. Okay.

1172

2 THE HEARING OFFICER: 2013?

3 THE WITNESS: Yes, 2013.

4 Q. And in this email you stated, "Hello,  
5 Ms. Cruz, hope you are well. I'm writing regarding  
6 several incidences which occurred after Mr. Goodman  
7 said I will go the way of Ms. O'Neil, and then waived  
8 his fingers saying "Bye-bye." Is that the--that  
9 statement, is that the conversation with Mr. Goodman  
10 that you are referencing happened after the post-  
11 observation conference that's reflected in  
12 Department's Exhibit 5?

13 A. Yes...

18 Q. For what reason, if any, did that  
19 statement make you feel that you were targeted?

20 A. Well, first of all, I was appalled to  
21 hear from what was supposed to be a professional  
22 person talk about one of your peers in that letter, in  
23 that fashion.

24 Q. And how did that make you--when Mr.  
25 Goodman waived his fingers "bye-bye," how did that

1173

2 make you feel?

3 A. Terrible.

4 Q. And what effect, if any, did Mr.  
5 Goodman's actions and statements have on your ability  
6 to teach?...

9 A. I was really nervous every time I  
10 would see them. I didn't--I mean I lost the trust.  
11 There wasn't any trust.

12 Q. Subsequent to Mr. Goodman making these  
13 statements and the actions of waiving bye-bye, what  
14 did Mr. Goodman then do in relation to your class?

15 A. He would--I don't know if I can  
16 frequently, it was more than that, he would come and  
17 stand by the door to my classroom on numerous times.  
18 He kept sending letters, disciplinary letters,  
19 meetings in the office, notices to observations.

20 Q. And did you ever complain about Mr.  
21 Goodman's subsequent actions to anybody?

22 A. Yes.

23 Q. And who did you complain to?

24 A. I complained to my chapter leader and

25 I also complained to the district representative.

Respondent was shown R16, an e-mail from Respondent to Ms. Cruz "Sent: Mon 2/4/2013 7:39 p.m." which stated

Hello Ms. Cruz,  
 Hope you are well. I am writing regarding several incidences which occurred after Mr. Goodman said I will go the way of Ms. O'neil and then waved his fingers saying "bye by". I have had a total of four disciplinary meetings and letters to file. I have also had Mr. Goodman stand by my classroom door on a daily basis. He entered my room last Friday and remained for two hours. He says I fail to have lesson plans when I show him my plans. Today he ordered me to his office for a post observation conference when I have not had my pre-observation conference yet nor my observation. He claims he observed me informally on Friday and this will go in my file. When I had a stomach virus last week and had to leave early he took over my class. He asked for my plans and I left him my notebook. When I returned and asked for my plans he said he did not know what I was talking about. This has really gotten to the point that I tremble when I walk into the building. Can you please Advise me on what I should do or what office may assist me.  
 Thank You,  
 Ann Legra

Her testimony continued with

1175

9 Q. And what if anything changed about Mr.  
 10 Goodman's behavior after you sent this email to Myra  
 11 Cruz?  
 12 A. I don't believe anything. He just  
 13 kept on the same.  
 14 Q. How often would Mr. Goodman stand  
 15 outside of your room?  
 16 A. Almost daily.  
 17 Q. and what affect if any did that have  
 18 on your ability to teach your class?  
 19 A. It had a great affect. I mean I would  
 20 see him and I would immediately check where my plans  
 21 were and make sure that he wouldn't, you know, say  
 22 anything to order me to for whatever reason--I would  
 23 just check that everything was in order of the plans  
 24 so that he can take the plans back. It was  
 25 frustrating. It was frustrating.

Counsel for Respondent argued

1820

2       there's no documentary evidence to show that Ms. Legra  
3       actually received any of the professional development  
4       that's listed in that observation.

c.       February 1, 2013 - DOE 19C, an Informal Observation of a first grade class  
and the testimony of Assistant Principal Goodman were submitted in support.

Assistant Principal Kevin Goodman testified on direct examination he  
"conducted routine classroom visits in Ms. Legra's room...at least once a week"  
[T459.L15, 22].

DOE 19C is his Observation of Respondent on February 1, 2013. His  
testimony, related thereto included

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17       A. I recall walking into Ms. Legra's  
18       classroom to see quite a few students not engaged. I  
19       recall the teacher sitting at a table during that  
20       time. I recall the teacher getting up when I entered  
21       the classroom to begin a line of questioning to the  
22       students that had to do with character work, and then  
23       I remember Ms. Legra moving the class into a, onto  
24       the rug area where the instruction in the classroom  
25       happens and teaching what I believed to be a word

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2       study lesson. And I recall believing that most of  
3       what I was seeing was Ms. Legra improvising during  
4       the time that I was in the classroom.

5       Q. And what led you to the conclusion  
6       that Ms. Legra was improvising during the lesson?

7       A. Because the questions and the  
8       behaviors that observed suggested that there wasn't  
9       much planned for students at that particular point in  
10      the day.

11      Q. Now, can you tell us what, if  
12      anything, concerned you about this lesson?

13      A. The first thing that concerned me was

14 that the agenda for the flow of the day that was  
 15 posted in the classroom for the students to use did  
 16 not reflect what I observed while I was in the  
 17 classroom. I again, observed students not engaged in  
 18 learning. I observed a number of students that were  
 19 just idle. I had concerns around the questions and  
 20 the way in which the teacher was interacting with the  
 21 class that was, in my opinion, trying to tie up the  
 22 reading portion of the period and I had concerns with  
 23 respect to the word study that I observed and the  
 24 fact that it was not grounded in the curriculum that  
 25 we were using for the purpose of word study at that

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2 time.

3 Q. Okay. I just want to ask you to  
 4 define a couple of terms for us. You referred to  
 5 character work. Can you tell us what character work  
 6 is?

7 A. So character work is a reading unit  
 8 that allows students to understand more deeply the  
 9 characters in the stories that they read and their  
 10 significance in those stories and allows them to make  
 11 decisions about those characters, whether it's  
 12 through evidence in the text or through making  
 13 inferences.

14 Q. And another term that you used was  
 15 word study. Can you tell us what word study is?

16 A. Word study is just a part of the day  
 17 where students have access to a deeper understanding  
 18 of language that's not necessarily tied to a text so  
 19 it's being able to look at words and the deconstruct  
 20 them for the purpose of, you know, enhancing their  
 21 understanding of those words.

22 Q. Now, you noted the first thing about  
 23 this lesson that concerned you was that the agenda or  
 24 flow of the day did not reflect what was happening in  
 25 the classroom. Why did that aspect of the lesson

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2 concern you?

3 A. Because that had been a concern of  
 4 mine in past visits to Ms. Legra's classroom and that  
 5 is a requirement at our school, is that the flow of  
 6 the day is posted for students to use as a resource  
 7 and it's used as a means of helping visitors to the



8 classroom understand what's supposed to be happening  
9 at that time...

14 Q. You also noted that one of your  
15 concerns was that you observed a number of students  
16 to be idle in the classroom?

17 A. Yes.

18 Q. Why did that concern you?

19 A. Because that had a previous concern  
20 during past visits to Ms. Legra's classroom and  
21 students that are idle are not engaged and are not  
22 learning.

23 Q. You also noted that the word study  
24 that was taking place was not--in the curriculum?

25 A. Yes.

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2 Q. Can you explain why that was a concern  
3 to you?

4 A. Because Ms. Legra's planning and  
5 preparation had been a concern of mine in past visits  
6 and the idea that she was not using the mandated  
7 curriculum, the actual materials provided was of  
8 concern because that suggested that students are not  
9 getting access to the grade appropriate material.

10 Q. And I'd like to turn your attention to  
11 the actual observation report and in that first  
12 sentence you noted that you went into Ms. Legra's  
13 classroom on February 1<sup>st</sup> at 10 a.m. during a routine  
14 instructional walkthrough. Had you intended this  
15 routine walkthrough to result in an observation, in a  
16 written observation report?

17 A. No.

18 Q. And what was the purpose of this  
19 routine instructional walkthrough?

20 A. Just to try to gain access to some  
21 very general information about grade one classrooms  
22 and where they are at in the curriculum and what we  
23 can do as a school community to support those  
24 teachers and students further.

25 Q. Now, typically, how long do you remain

479

2 in a classroom when you're conducting a routine  
3 walkthrough?

4 A. Anywhere between three minutes and say

5 15 minutes.

6 Q. And do you recall how long you were  
7 ion (sic) Ms. Legra's classroom during this lesson?

8 A. I recall being there for approximately  
9 one period.

10 Q. And how long is the period?

11 A. 45 minutes.

12 Q. Can you tell us why you stayed in Ms.  
13 Legra's classroom for the entire period as opposed to  
14 having the brief visit that you initially intended?

15 A. That would allow me to see several  
16 aspects of the curriculum, not just one particular  
17 part of the day, and it would allow me to see the  
18 transition that occurred from one lesson to the next,  
19 so by spending a little more time in there it gave me  
20 a better overall picture about some of the work and  
21 certainly, the growth of the teacher.

22 Q. Now, in the third line from the bottom  
23 of that first paragraph you write, when I first  
24 entered the classroom it appeared that students were  
25 supposed to be reading independently. Can you tell

480

2 us what led you to believe that students were  
3 supposed to be reading independently?

4 A. I recall seeing some students with  
5 books out, independent reading books.

6 Q. In the next paragraph you write, the  
7 majority of the students in your class were not  
8 reading nor were they holding books. There were  
9 books scattered on top of desks and even quite a few  
10 books on the floor. Considering that it was only 10  
11 a.m. in the morning, it was quite disturbing to see  
12 that the floor in Room 314 was such a mess, books,  
13 papers, pencils, etc., strewn under desks and chairs.  
14 Can you tell us why this time of the morning, 10  
15 a.m., was of particular significance to you in  
16 relation to the state of the room?

17 A. It seemed very early in the day for  
18 the class to be, for the classroom environment to be  
19 in such disarray and it suggested that there were  
20 some events prior to my arrival to the classroom that  
21 led to scattered materials and things of that nature  
22 that's described.

23 Q. What time does the school day begin?

24 A. 8 a.m.

25 Q. In the next paragraph in the first

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2 sentence you write, one student I say next to -- told  
3 me that she was reading level two books but she was  
4 holding a book labeled level I. Can you tell us why  
5 you made note of that in this observation report?

6 A. Because Ms. Legra had been reminded in  
7 previous observation reports about the importance of  
8 making sure that students are matched appropriately  
9 to the levels that they have been identified as  
10 reading at.

11 Q. And what, if anything, concerned you  
12 about the fact that this particular student was  
13 holding a book at a higher level than his particular  
14 reading level?

15 A. It suggested that perhaps the running  
16 record was not administered, or it was administered  
17 that it was done so incorrectly. It suggested that  
18 structures might not have been in place to allow  
19 students to shop for books or their level or that the  
20 materials were not made available to the students.

21 Q. And what, if any, impact would having  
22 the wrong level book have on student learning?

23 A. Well, for the most part, a student  
24 really needs to gain proficiency at the level they  
25 have been assessed at and so the goal is to help make

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2 a level G reader really strong so that they can  
3 approach level H books that, you know, have a  
4 different sort of structure in some instances. There  
5 are, you know, small differences between each level  
6 that makes it a level G book or makes it a level I  
7 book.

8 Q. Now, eight lines down from the top of  
9 this paragraph you write, -- a student in the class  
10 who was eager to share by raising her hand -- called  
11 on. She shared and you agreed with her thinking  
12 about a book that she apparently read, although you  
13 spoke about the book as though every child in the  
14 class should be familiar with it. What led you to  
15 believe that Ms. Legra's manner of speaking suggested  
16 that every child in the class should be familiar  
17 with?

18 A. I recall Ms. Legra allowing the

19 student to share out and presenting those questions  
20 specific to that one book to the entire class as if  
21 they should have all had knowledge of it, so the  
22 questions were specific to that actual text.

23 Q. And do you know if this was a book  
24 that was available to all the students?

25 A. It was not available to all the

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2 students.

3 Q. and how do you know that?

4 A. Because none of the students, none of  
5 the other students in the class were holding that  
6 text.

7 Q. What kinds of questions would you have  
8 expected to see Ms. Legra ask her students at this  
9 point in -- ?

10 A. Questions that were more general and  
11 that could be applied to any of the books that  
12 supported this character book and so perhaps posing  
13 questions along the lines of main character, but  
14 having to do with the students' individual books, not  
15 posing the questions to other students about the one  
16 student in the class who was prepared to share.

17 Q. Now, in the second line from the  
18 bottom you write that Ms. Legra stated describe him,  
19 you said one student described him as, quote, a  
20 sailor, and you quickly told that child that sailor  
21 is not a word although it appeared as though the  
22 child was -- that described this character although  
23 he was never provided this opportunity. Can you  
24 explain why it appeared to you that the student you  
25 referenced here was prepared to, as you state very --

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2 thinking?

3 A. I recall him continuing to speak  
4 before the teacher interrupted or interjected.

5 Q. And what kind of interaction between  
6 Ms. Legra and the student would you have expected to  
7 see at this point?

8 A. I would have expected to see the  
9 teacher being more nurturing and I would have  
10 expected to see the teacher help that student push  
11 his thinking by allowing him to finish his thought  
12 and by perhaps posing a follow-up question that could

13 have gotten him closer to the answer.

14 Q. Now, in the last sentence here you  
15 write, it was not evident that every child was  
16 familiar with this book and you never clarified for  
17 students that that was the case. In what ways would  
18 you have expected Ms. Legra to clarify for her  
19 students whether they were all familiar with the  
20 text?

21 A. I would have expected her to present a  
22 question along the lines of do you remember when we  
23 read this book loud together or do you remember when  
24 we saw this text at some other point, and so to be  
25 able to remind them of the time when they had an

485

2 experience with that text.

3 Q. And what, if any, impact does not  
4 having that kind of discussion with students have on  
5 learning?

6 A. It doesn't permit students to walk  
7 away with a deeper understanding of what it was that  
8 they are involved in and so if they're identifying  
9 aspects of their book that have to do with the  
10 character work, this lesson or the share session that  
11 I observed did not really clarify for students what  
12 it was that they should have been able to walk away  
13 with as a result of the learning that they were  
14 involved in.

15 Q. In the next paragraph you write, there  
16 were no instructions for your grade one students to  
17 indicate what was going to happen next in the  
18 instructional day. Why would you have expected to  
19 see instructions for students as to what would happen  
20 next?

21 A. Because transitions are a priority in  
22 our school and it's just good educational practice to  
23 be able to allow students, especially grade one  
24 students, to understand that they've completed one  
25 thing and they're now about to move on to something

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2 else.

3 Q. And can you give us an example of what  
4 type of instruction you would have expected to see?

5 A. I would have expected to hear  
6 something along the lines of we, class 104, we just

7 had an opportunity to read for 20 minutes. We're  
8 going to put our materials away now and we're going  
9 to bring ourselves to the rug area for word student  
10 when I call you by table or when I call you by group.

11 Q. And why would that type of instruction  
12 facilitate the lesson?

13 A. Because it allows students to  
14 understand what they need to gear themselves up for.

15 Q. In the next sentence you refer to,  
16 well, you write, students were never instructed to  
17 put their reading materials away nor were they told  
18 to fill out their reading logs, a curriculum  
19 requirement. Can you tell us what a reading log is?

20 A. So a reading log is a tool that  
21 students use and maintain to record the number of  
22 books that they have read over the course of a  
23 period.

24 Q. How long have reading logs been a  
25 curriculum requirement at P.S. 173?

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2 A. As long as I've been assistant  
3 principal there.

4 Q. And at what point during the day are  
5 students required to fill out reading logs?

6 A. They complete reading logs after  
7 reading independently in class and they take those  
8 same reading logs home and use them after they read  
9 independently beyond the school day.

10 Q. Five lines down ion (sic) this paragraph you  
11 write, without any introduction or meaningful -- you  
12 wrote EE and EA on the white board who remembers what  
13 sound. Can you explain what type of introduction or  
14 meaningful -- you would have expected to see at this  
15 point in the lesson?

16 A. Teachers are generally expected to  
17 present students with a teaching point which  
18 basically states the aim of the lesson and I would  
19 have expected to see something along the lines of  
20 students will be able to identify words that contain,  
21 you know, EE and EA.

22 Q. And why would having a teaching point  
23 such as that have been important in this type of  
24 lesson?

25 A. Because it allowed students to have an

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2 understanding of what they are going to learn and  
 3 holds them accountable for that work.  
 4 Q. Now, the next few lines you describe  
 5 an interaction that Ms. Legra had with a particular  
 6 student, Ja., and you indicate 10 lines down, I'm  
 7 sorry, either lines down, you went on to say in a very  
 8 harsh tone, you got that Ja., did you get it Ja. Can  
 9 you explain why you described Ms. Legra's tone as  
 10 very harsh at this point?  
 11 A. Because I don't believe that that tone  
 12 was a very effective practice in dealing with that  
 13 student...

21 Q. Do you recall who this student, Ja.  
 22 was? Do you recall what her first name is?  
 23 A. Yes.  
 24 Q. And what was that name?  
 25 A. Ja.

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2 Q. And when you testified that the very  
 3 harsh tone was not appropriate for this student, can  
 4 you explain why you felt that that was inappropriate  
 5 for this particular student, Ja.?  
 6 A. Because I knew that Ms. Legra had  
 7 history of struggling to deal with Ja. and the  
 8 behavior that I was observing at that point in time  
 9 did not seem to warrant such a harsh tone by the  
 10 teacher...  
 25. Q. And can you tell us what you remember

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2 about Ja. behavior in the class?  
 3 A. I recall Ja. needing reminders at  
 4 times about following directions. I recall her  
 5 coming late to school often and at times having a  
 6 tough time integrating into the life of the classroom  
 7 once the school day was already underway.  
 8 Q. And on this day, on February 1<sup>st</sup>, do  
 9 you remember what Ja. was doing during the lesson  
 10 that led to this discussion that she had with Ms.  
 11 Legra?  
 12. A. I recall students talking on the rug  
 13 as Ms. Legra was attempting to get their attention.



14 Q. And when you say students talking, was  
15 Ja. one of the students that were talking?

16 A. Yes.

17 Q. Now, a couple of lines down you write  
18 you then tell students that one column of words will  
19 be written -- but you go on to use a green marker.  
20 Why did you note the difference between the marker  
21 that Ms. Legra actually used versus what she said he  
22 used?

23 A. Because it didn't seem to make sense.  
24 It was obvious that the two groups of words were  
25 going to be written in two different colors, but to

491

2 state one thing in front of impressionable first  
3 grade students and to do another seemed noteworthy.

4 Q. You then noted, you began calling out  
5 words randomly without referring to a word lesson or  
6 even a piece of paper. you also attempted t(sic) use the  
7 word in sentences. Can you tell us what, if  
8 anything, was significant about Ms. Legra calling out  
9 words randomly?

10 A. Because the word work portion of the  
11 day is a part of the day where planning and  
12 preparation is necessary and to approach a lesson  
13 that looks at a particular letter structure, it would  
14 appear as though it would be useful to have those  
15 words and sentences prepared in advance to facilitate  
16 the teaching.

17 Q. Now, nine lines up from the bottom you  
18 write, the students that you call on to place the  
19 words in either column should have a real  
20 understanding of this work, questioning the need for  
21 this to be such a long -- class activity. Can you  
22 tell us why does the fact that the students seemed to  
23 understand the work call the length of the activity  
24 into question?

25 A. Because if students in the class

492

2 understand EE and EA words, then it would suggest  
3 that to approach it in a whole class setting for an  
4 extended period of time is unnecessary and that more  
5 sophisticated work could have been underway.

6 Q. Now, you just testified that that type  
7 of activity was not necessary for a whole class



8 activity. Is there another type of activity in which  
9 the type of word work that Ms. Legra was engaged in  
10 would have been appropriate

11 A. Yes.

12 Q. Can you tell us what kind of activity  
13 that would be?

14 A. So if a teacher is observing that a  
15 handful of students or one student in the class needs  
16 support with this kind of work, that could have been  
17 addressed in a small group opportunity. It could  
18 have been addressed in a one on one opportunity. It  
19 wouldn't necessarily need to drive a whole class  
20 lesson.

21 Q. And at what point during a lesson  
22 would Ms. Legra have had an opportunity to have a  
23 small group activity or independent work with the  
24 student?

25 A. So if there was something that

493

2 students were expected to go up and do as a result of  
3 the teaching, that would have been an opportunity to  
4 facilitate that work.

5 Q. And six lines up from the bottom of  
6 that center large paragraph you write, you then go on  
7 to tell students that they are going to take a  
8 spelling test. I was surprised to hear this because  
9 I know that we do not use or support curriculum that  
10 requires spelling tests. What was problematic about  
11 Ms. Legra's use of a spelling test at this point in  
12 the lesson?

13 A. Again, it was not something that could  
14 be found in our reading or writing curriculum, nor  
15 was it something that was supported by the word  
16 student materials that were provided to first grade  
17 teachers, so it suggested that Ms. Legra was creating  
18 her own set of rules, so to speak.

19 Q. Would conducting a spelling test such  
20 as this ever be appropriate for a lesson?

21 A. There are times when a spelling  
22 assessment is appropriate.

23 Q. And is your opinion, was the use of  
24 the spelling test appropriate in this circumstance?

25 A. No.

494

2 A. Can you tell us why you believe it  
3 wouldn't be appropriate in these circumstances?

4 A. Because the majority of the class  
5 showed a level of proficiency with understanding he  
6 EE and the EA structure and the goal of our word  
7 student is to generally teach into strategies that  
8 are necessary to spell words correctly and the idea  
9 of giving a spelling test after the lesson did not  
10 seem to make sense.

11 Q. In the next paragraph you describe the  
12 words that Ms. Legra used for the test. You then  
13 write, then your cell phone went off. Is there a  
14 school policy on cell phone use ion (sic) class?

15 A. Teachers are reminded that cell phones  
16 need to be away during instructional time and if  
17 there is an instance where a teacher needs to  
18 communicate with somebody outside of school during  
19 instructional time, then they need to ask somebody to  
20 help intervene.

21 Q. You then wrote, you attempted to make  
22 the test more challenging for students, but all  
23 students were obviously struggle (sic) with the work you  
24 had already presented to them. What was your opinion  
25 of Ms. Legra's attempt here to make the test more

495

2 challenging?

3 A. It did not seem appropriate for the  
4 majority of students in the class.

5 Q. And what led you to the opinion that  
6 it was not appropriate for most of the students?

7 A. Because there were students that were  
8 struggling to just navigate the paper that Ms. Legra  
9 had handed out for the spelling test.

10 Q. Okay. Can you explain what you mean  
11 when you say that they were struggling to navigate  
12 the paper?

13 A. Sure. So first grade students  
14 generally get paper that has a few lines on the page  
15 and students were using loose leaf paper which is  
16 more representative of what upper grad students would  
17 use for writing.

18 Q. And in what ways were the first grade  
19 students that you observed having difficulty  
20 navigating this loose leaf paper?

21 A. Just in terms of getting there, their  
 22 name on the paper. Ms. Legra was moving quickly.  
 23 She was reading the words and the number that  
 24 corresponded with the word very quickly making it  
 25 tough for the first graders to follow along.

496

2 Q. Now, turning to the next page which is  
 3 Bates page 44, on the second line you write, what was  
 4 most interesting was that a handful of students were  
 5 able to write the words on the white board when you  
 6 had the class on a rug, yet, most students were  
 7 really struggling to tell the directions for  
 8 completing the spelling test suggesting what you were  
 9 -- as we improvised throughout the school day. Can  
 10 you tell us why the, what you observed of the  
 11 students at the white board versus completing their  
 12 spelling test led you to believe that Ms. Legra was  
 13 oblivious to her students' needs?

14 A. When the students were presented with  
 15 the spelling structure on the board, the EE and the  
 16 EA, and they were presented with words that fell into  
 17 one of those two columns, they were able to write the  
 18 words out, but when Ms. Legra was just reading the  
 19 words aloud as she was administering the spelling  
 20 test, those same students were struggling to follow  
 21 along, keep up and ultimately write the appropriate  
 22 word down on the paper suggesting the need to  
 23 approach this in a different way.

24 Q. And what might have been a more  
 25 appropriate way for Ms. Legra to approach this type

497

2 of --?

3 A. Perhaps by presenting students with a  
 4 template that had the same letter structure, the EE  
 5 and the EA, and then giving students words possibly  
 6 in context and then to allow them to write those  
 7 words into the appropriate column. That's one  
 8 example.

9 Q. Now, in the next line you write, what  
 10 I observed over roughly a class periods inside of Room  
 11 314 prompted me to request your lesson plans. Can  
 12 you tell us why you wanted to see Ms. Legra's lesson  
 13 plans after having observed her for about a period?

14 A. Because I felt very strongly that what

15 I observed was not planned for that day and that  
16 there was no lesson plan to facilitate what I  
17 observed...

23 Q. Mr. Goodman, looking at page 44, there  
24 is a heading titled instructions for improvement.  
25 When you testified earlier you testified that there

498

2 would be frequently an observation to the  
3 commendation section as well as an instruction --  
4 section.

5 A. Yes.

6 Q. Does this observation report contain a  
7 commendation section?

8 A. It does not.

9 Q. Can you tell us why you didn't include  
10 a section on commendable aspects?

11 A. I was unable to identify any practices  
12 in Ms. Legra's classroom at that point that were more  
13 accelerating.

14 Q. Now, in this first bullet point under  
15 instructions for improvement, in the fourth line from  
16 the bottom of this section you write, you are  
17 required to manage your students and facilitate a  
18 learning environment that will allow students to  
19 thrive through reading and applying the relevant  
20 skills and strategies taught during reader's  
21 workshop. Can you tell us why you made this  
22 particular instruction to Ms. Legra?

23 A. It had been noted in previous  
24 observations of Ms. Legra that the independent  
25 reading piece was very important and that helping

499

2 students to maintain a good reading experience was  
3 critical.

4 Q. Now, in the second sentence of this  
5 same bullet point you write, there was no evidence of  
6 a reading mini lesson that you taught. What is a  
7 reading mini lesson?

8 A. So that's just a portion of the period  
9 where the teacher performs direct instruction to the  
10 students.

11 Q. And is a mini lesson part of a larger  
12 type of lesson?

13 A. So the mini lesson is part of the  
 14 workshop as it's referred to, so it's the point in  
 15 the workshop where the teacher is providing the  
 16 direct instruction.  
 17 Q. Do you know if a reading mini lesson  
 18 had taken place prior to your entering the classroom?  
 19 A. I don't know that.  
 20 Q. Now, in the next bullet point you note  
 21 in the second sentence, you're referring to help your  
 22 students manage their independent reading lines so  
 23 that they match the books that are just right. Can  
 24 you explain why you made this, gave Ms. Legra this  
 25 instruction?

500

2 A. Because it had been noted in previous  
 3 observations to Ms. Legra that students need to have  
 4 access in the books that are on their level. Another  
 5 way of saying that is that students to have access to  
 6 books that are just right or a book that students can  
 7 read with independence.  
 8 Q. In the next bullet point you note the  
 9 agenda that Ms. Legra had in her classroom indicating  
 10 a time for interactive writing and a time for a  
 11 reading workshop and you write, I did not observe  
 12 either of these instructional periods inside your  
 13 classroom. Why would it have been important to  
 14 an interactive writing portion and a reading workshop  
 15 portion of Ms. Legra's lesson?  
 16 A. It would have been important to see  
 17 because those were the instructional periods that  
 18 were aligned with the time that I was in the  
 19 classroom.  
 20 Q. In the last sentence of this bullet  
 21 point you write, the fact that you had no coherent  
 22 lesson plans later surfaced suggesting an inaccurate  
 23 FOTD was to be expected. What are you referring to  
 24 when you say FOTD?  
 25 A. Flow of the day.

501

2 Q. And what, if anything, concerned you  
 3 about the fact that Ms. Legra did not have any lesson  
 4 plans?  
 5 A. Because that had something that  
 6 had been observed in Ms. Legra's practice in previous

7 years.

8 Q. And why is it important for a teacher  
9 to have a coherent set of lesson plans?

10 A. It's a contractual obligation and it  
11 is for the purpose of allowing teachers to plan their  
12 day out as it pertains to the curriculum that they  
13 are required to teach.

14 Q. Now, on the next page, page 45, on the  
15 third line from the top you write, aside from these  
16 questions lacking rigor, it was not clear to me what  
17 text you were referring to and why you would insist  
18 on calling on a child repeatedly who is not prepared  
19 to answer. Can you tell us what concerned you about  
20 the way in which Ms. Legra was questioning her  
21 students?

22 A. It was of concern because posing a  
23 question who was unable to answer, repeatedly posing  
24 that question is not going to help that student get  
25 the answer that the teacher is looking for and it's

502

2 just not aligned with satisfactory early childhood  
3 practice.

4 Q. Then what might have been another way  
5 for Ms. Legra to question her students in a more  
6 productive way?

7 A. So it would have been helpful to have  
8 questions that were aligned with what students were  
9 actually involved in. It would have been helpful to  
10 ensure that the reading that students were doing was,  
11 in fact, appropriate for the questions that the  
12 teacher was prepared to ask, and it would have been  
13 useful to think about allowing that student to be  
14 able to pass on answering the question and to perhaps  
15 look for a student that was more prepared to answer  
16 the teacher's question.

17 Q. In the next bullet point you write,  
18 there were no about what students were to do next and  
19 expectation as a professional classroom teacher is  
20 that you were willing and able to facilitate safe and  
21 thoughtful transitions for all students setting them  
22 up for what they were going to learn next. Can you  
23 explain why safe and thoughtful transitions are an  
24 expectation of your teachers?

25 A. Because we permit teachers an

503

2 opportunity in the beginning of the school year for  
 3 when they are taking the class over to invest time in  
 4 those structures for transitions, so it's important  
 5 for teachers and students to be clear about how they  
 6 are going to move on from one activity to the next  
 7 and it's important to help facilitate the learning  
 8 and it's also important to ensure that students are  
 9 safe inside of their classroom.

10 Q. In the next bullet point you write,  
 11 considering your flow of the day was not accurate, it  
 12 was not clear as to what part of your day I observed.  
 13 You then go on to say that you assumed that Ms. Legra  
 14 was engaged in a word study. Can you tell us what  
 15 led you to the assumption that what was taking place  
 16 was a word student (sic)?

17 A. Because looking at words and spelling  
 18 structures is generally a part of the day that we  
 19 align with word study.

20 Q. And what was your opinion of the way  
 21 that Ms. Legra approached this word study?

22 A. Haphazardly.

23 Q. And why would you describe it as  
 24 haphazardly?

25 A. Because I did not see any evidence

504

2 that suggested that students needed to be presented  
 3 with that letter structure, that spelling structure,  
 4 to identify words that fall into either of those two  
 5 categories and Ms. Legra did not approach the lesson  
 6 with any kind of word list or plan that would have,  
 7 you know, facilitated her instruction.

8 Q. In that last sentence of this bullet  
 9 point you write, your word study work should be fully  
 10 aligned with the words their way program which  
 11 appears unused, sitting in crates atop students'  
 12 desks. What is the word their way program?

13 A. Words their way is the word study  
 14 program that P.S. 173 was using prior to this year  
 15 and there are student workbooks that follow the  
 16 teacher guides that were presented to all grade one  
 17 teachers this year.

18 Q. And when you say it was used prior to  
 19 this year, was the words their way program in place  
 20 during the 2012-2013 school year?



21 A. Yes, yes, that's what I meant to say.  
 22 Q. And in what way would you have  
 23 expected to see Ms. Legra using the materials from  
 24 that program?  
 25 A. I would have expected to see a word

505

2 study lesson that relied upon the resources and  
 3 materials that were aligned with that grade  
 4 appropriate work.  
 5 Q. In the next bullet point, in the  
 6 second sentence you write, a quick glance around the  
 7 classroom suggested that this was a developmentally  
 8 inappropriate whole class activity referring to the  
 9 spelling test. Can you tell us what led you to the  
 10 conclusion that it was a developmentally  
 11 inappropriate class activity?  
 12 A. Because the majority of the students  
 13 were finding success with placing the words into  
 14 either of the two columns suggesting that the whole  
 15 class did not need access to the same lesson.  
 16 Q. In the next bullet point you write,  
 17 your classroom environment in Room 314 fails to meet  
 18 the expectations outlined in the classroom  
 19 environment checklist that has been shared with  
 20 teachers on several occasions. Can you tell us where  
 21 this classroom environment checklist came from?  
 22 A. The classroom environment checklist  
 23 was the document created by teachers, I believe the  
 24 previous year.  
 25 Q. Okay. If you could take a look at

506

2 Department Exhibit 24, is department Exhibit 24 the  
 3 classroom environment checklist to which you were  
 4 referring?  
 5 A. Yes, it is.  
 6 Q. Thank you. You can turn back to 19C.  
 7 Can you tell us what about Ms. Legra's classroom as  
 8 you observed it on February 1<sup>st</sup> led you to believe  
 9 that it did not meeting the expectations outlined in  
 10 that checklist?  
 11 A. Just the physical condition of it was  
 12 messy. There were very few to no environmental  
 13 features that were aligned with the checklist that  
 14 was created by teachers previously, so there was no



15 evidence of current units of study that were underway  
 16 by way of charts, for example. There were no charts  
 17 that pointed towards structures or routines in class,  
 18 so something along the lines of a chart that  
 19 supported students during independent reading and  
 20 what the expectations are for students during that  
 21 period of time, things of that nature.

22 Q. In the last sentence on this page you  
 23 write, it is evident that you have made a conscious  
 24 effort to not address anything -- of classroom  
 25 environment that's been cited in past observation

507

2 reports and disciplinary letters. What led you to  
 3 the conclusion that Ms. Legra had made a conscious  
 4 effort not to address the classroom environment?

5 A. Because considering the point in the  
 6 school year that it was during that observation, I  
 7 felt very strongly that the classroom represented a  
 8 room that the teacher was closing up on the final day  
 9 of school.

10 Q. And prior to February 1<sup>st</sup> of 2013  
 11 what, if any, support had been made available to Ms.  
 12 Legra around the subject of classroom environment?

13 A. The subject of classroom environment  
 14 had been a constant talking point for grade level  
 15 meetings that were facilitated by myself, other  
 16 administrators. Classroom environment was addressed  
 17 with the literacy and math coaches during their  
 18 meetings with teachers and how classroom environments  
 19 can support the curriculum and instruction happening  
 20 inside of classrooms, and classroom environment was  
 21 also a point made by our Teacher's College staff  
 22 developer at the meetings that were facilitated for  
 23 teachers during her time in the building.

24 Q. Turning to the last page of this  
 25 observation report which is page 36 (sic), you write that

508

2 you rated this lesson unsatisfactory. Can you tell  
 3 us why you gave his lesson an unsatisfactory rating?

4 A. I rated it unsatisfactory in large  
 5 part due to the shortcomings that were outlined in  
 6 the instructions for improvement, shortcomings that  
 7 are aligned with some of the most basic requirements  
 8 that are the requirements of teachers aligned with

9 planning and preparation, aligned with maintaining a  
 10 classroom that supports student learning, that is  
 11 aligned with the management of students and with the  
 12 lens of the annual rating sheet that teachers are  
 13 presented with and the different categories that are  
 14 rated over the course of the year.

15 Q. You noted in this paragraph that Ms.  
 16 Legra had been made aware of these matters in past  
 17 observation reports, disciplinary letters and  
 18 conferences. Why did you make reference to these  
 19 prior documents and conferences?

20 A. Because it just, we were at a point  
 21 where Ms. Legra was not receptive to what had been  
 22 brought other attention on numerous occasions and it  
 23 felt necessary to point her back to the times where  
 24 these deficiencies were memorialized by myself, by  
 25 the principal and past administrators.

509

2 Q. In the last sentence of this paragraph  
 3 you write, the classroom observance the lab tech for  
 4 professional development session alongside her K to two  
 5 Teacher's College staff developer on February 12<sup>th</sup>, 2013,  
 6 why was Ms. Legra's classroom selected to be this lab  
 7 site?

8 A. As a means of professional support for  
 9 her.

During cross examination Mr. Goodman testified

671

6 Q. ...  
 7 Are you aware that under the Joint  
 8 Exhibit 1, the collective bargaining agreement, that  
 9 in order to consider a document for an annual rating  
 10 it must be a document that's properly within a  
 11 teacher's personnel file?

12 A. I don't believe that's the case.

672

13 Q. Do you recall how often during the  
 14 2011-2012 school year that you visited her classroom?

673

12 A. I would--I would put the number at  
 13 somewhere between 25 and 30 visits.

5 Q. But on none of those visits you 674  
6 observed something that you thought necessitated a  
7 formal written report?  
8 A. I don't believe so.

2 Q. How many formal observations did you 675  
3 conduct of Ms. Legra's classroom during the 2011-2012  
4 school year?  
5 A. I don't believe I conducted a formal  
6 observation that year...

16 A. I recall Ms. Boursiquot conducting a  
17 formal observation of Ms. Legra during the 2011-12  
18 school year.

4 Q. Can you please identify what this 676  
5 document is?  
6 A. It is a formal observation report  
7 authored by the principal, Ms. Boursiquot.  
8 Q. And is this the observation report for  
9 the 2011-2012 school year that you were referencing a  
10 few minutes ago?  
11 A. I believe so.  
12 Q. And can you please read the date of  
13 the observation report on the first page of  
14 Department's Exhibit 3, which is also Bates page one?...

18 A. Okay. So June 21<sup>st</sup>, 2012.  
19 Q. And June 21<sup>st</sup>, 2012, would be at the  
20 end of the 2011-2012 school year?  
21 A. Yes.  
22 Q. Do you recall approximately how many  
23 days there may have been in the end of the--until the  
24 end of the year from June 21<sup>st</sup>, 2012?  
25 A. Maybe about a week.

2 Q. ... 677  
3 One week is not really a  
4 whole lot of time to correct any behavior. Is that  
5 true?  
6 A. Well, if you're thinking about each

7 school year from September to June then certainly not.

684

8 Q. So and for a teacher who is changing  
9 grades, is there--how do they learn the differences  
10 between the different grades that they've been  
11 teaching?

12 A. Some of that starts with the teacher  
13 just having to experience the students and experience  
14 the class. And a lot of that takes place in the first  
15 month, more or less, of the school year. There are  
16 certain responsibilities that a teacher needs to  
17 engage in with any grade where there needs to be  
18 experience with the curriculum in place that's  
19 relevant.

686

4 Q. So would you consider the first month  
5 of school to be an important time period for a  
6 teacher?

7 A. Yes.

8 Q. And what other things occur during the  
9 first month of school that would benefit a teacher?

10 A. The first month of a school year just  
11 really presents this opportunity for the sense of  
12 renewal, if you will, and it allows again a teacher an  
13 opportunity to experience certain things alongside the  
14 class that's really going to set the stage for the  
15 duration of the school year. That's generally how we  
16 think about that first month, that you're trying to  
17 lay the groundwork, so to speak, for what the  
18 remainder of the year is going to look like.

689

11 Q. So, even if a teacher is very  
12 experienced but they change their grade, they would  
13 get some form of professional development individually  
14 from Ms. Seratti?

15 A. It would be some type of support, yes.

16 Q. Okay. And would that be the same set  
17 up for Ms. Francisco, the literacy coach?

18 A. Yes.

691

17 Q. So, since Ms. Legra was--had only  
18 taught kindergarten for just a few months prior to the

19 '11-'12 school year, she was assigned to work with Ms.  
20 Seratti and Ms. Francisco?

21 A. Which school year is this?

22 Q. '11-'12.

692

3 A. Support would have been put in place  
4 to support Ms. Legra at whatever point she took over a  
5 class certainly....

22 Q. Do you know if Ms. Seratti provided  
23 any targeted professional development to Ms. Legra  
24 during the 2011-2012 school year?

25 A. Yes.

693

2 Q. What was that professional  
3 development?

4 A. I recall Ms. Legra having issues with  
5 just basic classroom management practices, and that  
6 being a topic of discussion with the coaches, in  
7 particular Ms. Seratti here. In addition to making  
8 sure that Ms. Legra was clear about the curriculum  
9 calendars or pacing calendars, and ensuring that she  
10 was implementing all of the instruction required for  
11 the grade that she was assigned to teach. Those are  
12 two priority areas that recall being an issue that  
13 year.

14 Q. And when did Ms. Seratti provide this  
15 professional development to Ms. Legra?

16 A. I don't recall exact.

17 Q. Did you ever have conversations with  
18 Ms. Seratti about the professional development, the  
19 targeted professional development that she did with  
20 Ms. Legra during the 2011-2012 school year?

21 A. Yes.

22 Q. And how often would that occur?

23 A. I don't recall.

24 Q. Did you speak with Ms. Seratti about  
25 the targeted professional development provided to Ms.

694

2 Legra via email during the 2011-2012 school year?

3 A. I don't recall.

4 Q. Did you ever see any of the targeted  
5 professional development that Ms. Seratti provided to

6 Ms. Legra during the 2011-2012 school year?

7 A. I don't recall.

8 Q. Did you ever see any logs of  
9 assistance written by Ms. Seratti which pertain to the  
10 targeted professional development provided to Ms.  
11 Legra during the 2011-2012 school year?

12 A. I don't recall.

734

13 Q. With regard to classroom environment  
14 and particular charts within the classroom, what types  
15 of things do you expect to see?

16 A. Charts should include evidence of the  
17 Units of study that underway for the different  
18 Content areas, particularly reading, writing, and  
19 mathematics. Charts should also include strategies  
20 for students to implement when they go off to work  
21 independently, as well as charts that outline some of  
22 the structures and routines inside of the classroom  
23 that are aligned with say behavior or that are aligned  
24 with the work that students are involved in.

25 Q. And where do the charts that are

735

2 supposed to be aligned with the curriculum, where do  
3 they come from?

4 A. Teachers are able to develop those  
5 charts based on the needs of their students...

14 Q. So they would have to create all of  
15 the charts on their own?...

25 Q. But there were charts?

736

2 A. I recall a few, yes

3 Q. Is there a required number of charts  
4 that you have to have in the room?

5 A. No.

6 Q. So you could have one chart or you  
7 could have 25 charts?

8 A. Conceivably, yes

737

6 Q. And are teachers required to change  
7 the content of their charts on a daily basis?

8 A. Not on a daily basis.  
9 Q. On a weekly basis?  
10 A. Charts would change over the course of  
11 a unit. So if we considered a writing unit, for  
12 example, that lasted the course a month, the number of  
13 charts relevant to that unit might increase over the  
14 course of the month.

738

2 Q. Isn't it true that she also only  
3 taught first grade for a few months in her career  
4 prior to that year?

5 A. I recall Ms. Legra spending a full  
6 year in first grade during my time at 173.

7 Q. Do you know when that was?

8 A. I believe it was the '09-'10 school  
9 year.

10 Q. So it was few years removed from  
11 that time period, from the 2012-2013 school year?

12 A. Yes.

13 Q. So it's possible she didn't have those  
14 charts anymore because she wasn't teaching first  
15 grade?

16 A. That's possible, yes.

17 Q. So then she would have had to create  
18 the charts for her class for the entire school year at  
19 the same time that she was supposed to be trying to  
20 cultivate expectations a month after the school year  
21 started?

22 A. Yes. That would have been an  
23 expectation.

739

3 A. The process of creating charts is an  
4 ongoing, yearlong commitment

5 Q. Isn't it possible that some teachers  
6 would create charts that work with the curriculum  
7 during the summer time?

8 A. I guess it's possible.

9 Q. But Ms. Legra didn't have that  
10 opportunity to make first grade charts during the  
11 summer time, did she?

12 A. No, she didn't.

740

12 Q. And is there any memorialized document

13 for the first grade teachers that I guess amplifies  
14 this document from the 2012-2013 school year?

15 A. Not that I'm aware of.

16 Q. What about the kindergarten  
17 teachers during the 2011-2012 school year?

18 A. Not that I'm aware of.

19 Q. So is it fair to say that this is  
20 really the exhaustive chart, as one exists for those  
21 grades in those years?

22 A. That was furnished by administrators,  
23 yes.

24 Q. I just mean in terms of a chart, not  
25 That there hasn't been - I'm not asking if there hasn't

741

2 been any changes. I just mean in terms of what you  
3 may have distributed.

4 A. What I've distributed, yes...

18 Q. Was there a word wall in Ms. Legra's  
19 classroom during the 2011-2012 school year?

20 A. I don't recall.

21 Q. Do you recall if there was one in her  
22 classroom in the 2012-2013 school year?

23 A. I don't recall...

742

22 Q. And Ms. Legra did the inter-  
23 visitations, correct?

24 A. I believe so, yes.

25 Q. And when else was she assigned to do

743

2 inter-visitations during the 2011-2012 school year?

3 A. I don't recall.

4 Q. You don't recall if she was assigned  
5 or when -

6 A. [Interposing] I don't recall the  
7 dates...

23 Q. Would you have had Ms. Legra use this  
24 tool again if she had to do further inter-visitations?

25 A. Not necessarily.

744

2 Q. Did you find this to be ineffective?



3 A. I found it to be ineffective?

4 Q. The tool itself or the inter-  
5 visitations?

6 A. Ms. Legra's understanding of how to  
7 use the tool.

8 Q. And who was the person who explained  
9 to her how to use the tool?

10 A. I don't recall.

11 Q. But you created it?

12 A. Yes.

13 Q. Did you explain to her how to use the  
14 tool?

15 A. Possibly.

16 Q. And what about during the 2012-2013  
17 School year, did you assign Ms. Legra to do any inter-  
18 visitations?

19 A. I don't recall.

20 Q. Do you know if Ms. Boursiquot assigned  
21 Ms. Legra to do any inter-visitations?

22 A. Possibly.

23 Q. But you don't know?

24 A. I don't - I don't - I don't know. Yea,  
25 that's right. I'm sorry...

745

2 Q. What about Ms. Duratis? Do you know  
3 if she assigned Ms. Legra to do any inter-visitations?

4 A. I don't know.

...

10 Q. And do you know whether or not those  
11 two individuals, Ms. Boursiquot or Ms. Duratis,  
12 assigned Ms. Legra to do inter-visitations during the  
13 2011-2012 school year?

14 A. I don't know.

746

9 Q. Who leads the class during the lab  
10 site demonstration?

11 A. It's generally a collaborative effort  
12 between one of the grade teachers or a supervisor, as  
13 well as the staff developer or the literacy coach.

14 Q. Do you know who provide - who led the  
15 class on the day that Ms. Legra's classroom was the  
16 lab site?

17 A. There were multiple times where Ms.  
18 Legra's class was the lab site.

19 Q. Other than February 12<sup>th</sup>, 2013, when  
20 was Ms. Legra's classroom the lab site?

21 A. The lab sites are a yearlong  
22 commitment. So I don't-- I don't recall the exact  
23 dates.

24 Q. I believe that your letter-- strike  
25 that. I believe that you assigned the lab site room

747

2 to Ms. Legra's classroom in February of 2013. Was her  
3 classroom the lab site prior to that?

4 A. It's possible. I don't recall  
5 exactly.

6 Q. Well, if it's a yearlong - -

7 A. [Interposing] Yes.

8 Q. --a yearlong program, commitment,  
9 would you have had to tell her that you were now  
10 assigning her classroom to be the lab site?

11 A. She would have been a part of that  
12 conversation, yes.

13 Q. So doesn't it stand to reason that, if  
14 you had to tell her that her classroom was going to be  
15 the lab site coming up, that it wasn't previously the  
16 lab site?

17 A. I recall using class 104 at different  
18 intervals over the 2012-2013 school year.

748

14 Q. And can you please read on the second  
15 page of Department's Exhibit 34 the very first  
16 sentence of the body of the letter that you provided  
17 to Ms. Legra, which is also Bates page 121?

18 A. "Your classroom has been selected as  
19 the lab site for Monique's visit on February 12<sup>th</sup>,  
20 2013."

21 Q. Is that what you would write if Ms.  
22 Legra's class had been the lab site for the entire  
23 school year?

24 A. That appears to be something I would  
25 write if this was the first time that I was

749

2 memorializing that lab site for the first time that  
3 school year.

750

24 Q. And you stated that this would be a  
25 tremendous professional development -- sorry, you just

751

2 said professional opportunity for Ms. Legra. In what  
3 ways would having her classroom as a lab site be a  
4 professional opportunity for her?

5 A. The teacher has an opportunity to see  
6 a lesson taught with her students from start to finish  
7 that relies upon work that they have created possibly  
8 prior to the visit by the staff developer and the  
9 other grade one teachers, or perhaps as a result of  
10 the work that's created during that period when the  
11 staff developer and the grade one teachers are  
12 present. So the teacher has an opportunity then to  
13 see a lesson flow from start to finish, all of the  
14 components of the lesson, the actual teach, and the  
15 other components of the mini-lesson. They get to see  
16 a book conceivably being or potentially being used to  
17 facilitate that teaching; a staff developer modeling  
18 what that work looks like, what happen when students  
19 go off to work independently. So every aspect of the  
20 lesson is something that the teacher would have an  
21 opportunity to observe with the same class that  
22 they're assigned to during the school day.

23 Q. And did -- sorry, Ms. Knight actually  
24 did the lesson plan, correct?

25 A. I recall that being what occurred.

752

2 Q. Did you review a copy of the lesson  
3 plan that she wrote for this lab site?

4 A. I don't recall looking at the lesson  
5 plan.

6 Q. Were you there when Ms. Knight  
7 conducted the lesson?

8 A. I recall being -- I believe I recall  
9 the particular lab site session.

10 Q. So you were present?

11 A. Yes.

12 Q. Was anybody else present, other than  
13 you, Ms. Knight, and the students?

14 A. I recall other grade one teachers  
15 being present. I recall Ms. Boursiquot, the

16 principal, being present, as well as Ms. Francisco,  
17 the literacy coach, being present.

18 Q. And I'm assuming Ms. Legra was  
19 present?

20 A. I recall Ms. Legra being present  
21 during the February lab site.

22 Q. Was Ms. Knight the only person who  
23 provided actual instruction that day?

24 A. I recall Ms. Knight being the  
25 individual to facilitate the whole class teaching.

753

2 So, while the students are on the rug listening to one  
3 individual conducting a lesson, that's what I recall.

4 Q. So was there also small group work  
5 during that lesson?

6 A. I recall students working individually  
7 with teacher partnerships. So two grade one teachers  
8 working with one student, that's what I recall.

9 Q. I'm sorry. You said two --

10 A. [Interposing] I recall two teachers  
11 being assigned to one student, or two adults being  
12 assigned to one student. That's what I recall on that  
13 day.

14 Q. So doesn't that leave several students  
15 without any adult in the class?

16 A. Yes.

756

2 Q. What if anything would Ms. Legra have  
3 had to do the subsequent times that her room was used  
4 as a lab site?

5 A. There were a number of things that she  
6 could have been expected to do but --

7 Q. [Interposing] But what was she  
8 assigned to do?

9 A. To prepare for the next lab site?

10 Q. Correct.

11 A. I don't recall.

12 Q. So it's possible that she wasn't  
13 actually assigned anything in particular?

14 A. That's correct.

15 Q. And approximately how many lab sites  
16 are done in a particular school year, or conducted in  
17 a particular school year?

18 A. Historically six

774

22 Q. And if a teacher complains about  
23 student behavior in the classroom, what is your - -  
24 what's the policy at P.S. 173 for administrators to  
25 get involved?

775

2 A. We usually dispatch the guidance  
3 counselor to the classroom to make observations about  
4 what's happening with the child, whether or not there  
5 are concerns with respect to how that child is getting  
6 along with other children in the class, whether or not  
7 the setting is the most appropriate. There's a  
8 dialogue that occurs, that includes the teacher, that  
9 includes the guidance counselor, families, the parent  
10 coordinator, that kind of thing.

11 Q. What about when a teacher is  
12 complaining about a student being violent towards  
13 other students? What is the policy then?

14 A. The teacher calls the office, for  
15 example, to suggest that a child's behavior is posing  
16 a danger to herself or the other children, then  
17 administrators will respond immediately. Sometimes, a  
18 school safety agent would be dispatched for that  
19 purpose, as well.

796

9 MR. GOODMAN: I recall an e-mail from Ms.  
10 Legra regarding Ja. Va., yes. I don't know if this is  
11 the e-mail that I recall.

797

24 Q. Okay. Do you recall, on March 21<sup>st</sup> of  
25 2013, M. Legra notifying you of concerns that Ms.

798

2 Va., Ja. Va., was acting violently in her class, in  
3 Mrs. Legra's classroom?

4 A. I don't recall.

5 Q. Do you recall ever responding to a  
6 complaint of Ms. Legra when she claimed that Ms. Va.  
7 was hitting other students?

8 A. Yes.

9 Q. Or that Ms. Va. was throwing chairs  
10 and pencils?

11 A. I don't recall the specifics to what  
12 would have required me to respond to Ms. Legra's room  
13 regarding Ja. Va.

14 Q. Do you recall any other time where Ms.  
15 Legra had to physically restrain Ja?

16 A. I don't recall Ms. Legra physically  
17 restraining Ja.

18 Q. Do you recall an incident when Ja. bit  
19 Ms. Legra in the classroom?

20 A. I believe so...

25 Q. Do you recall incidents when Ja. hit

799

2 Ms. Legra in the classroom?

3 A. I don't recall.

4 Q. Looking at Respondent's 12, in the  
5 body of the e-mail, six lines down, there's a line  
6 that says "When my attempts to calming her down failed  
7 and she punched me, I called the main office for help.  
8 I spoke with C.P." Do you ever recall getting a  
9 phone call to the main office where Ms. Legra  
10 complained that Ja. Va. punched her?

11 A. I don't recall.

800

3 Q. Had a teacher called in and claimed  
4 that a student had punched them, would she have  
5 notified the administration about that?

6 A. Yes.

7 Q. And on March 21<sup>st</sup>, when Ms. Legra  
8 claimed that this event happened, did you also have  
9 occasion to go to her classroom that day?

10 A. I don't recall.

800

14 Q. Did you perform an observation of Ms.  
15 Legra on this day, on March 21, 2013?

16 A. Yes.

17 Q. And you stated that you performed an  
18 observation because it was a routine walk-through.

19 A. Yes.

20 Q. Isn't this also the day that Ms. Legra  
21 complained to the office about violent behavior from  
22 Ms. Va.?

23 A. According to the body of the e-mail,  
24 that's what it suggests.

25 Q. So if there were violent activity

801

2 going on by a student in Ms. Legra's classroom, you  
3 would have been required to go down to her class,  
4 anyways, correct?

5 A. Possibly.

802

12 A. I recall Ja. Being late frequently,  
13 right, which could be to a child struggling to get  
14 underway with the regular school day.

15 Q. And could that cause any disruption  
16 with the rest of the class?

17 A. Yes.

803

5 Q. And you also previously testified that  
6 Ja. needed reminders at times about following  
7 directions. Can you please state what you meant by  
8 reminders?

9 A. A child needing to be told more than  
10 once about what needs to happen, whether it's  
11 behavioral or academic in nature.

12 Q. In your role as assistant principal,  
13 would you have any responsibility for student  
14 discipline?

15 A. Yes.

16 Q. And in that role, did you ever have to  
17 personality discipline Ja.?

18 A. I recall dealing with Ja. And  
19 facilitating consequences for her actions, which at  
20 times, required me to remove her from the classroom.

Tania Serratty, the Math coach, on direct examination, testified

352

19 Q. Okay. During the 2011-2012 school  
20 year, other than the time that you observed Ms. Legra  
21 and that model lesson, did you do any other individual  
22 work with her, if you recall?

23 A. I don't recollect them, yes.

355

4 A. This was a visit and I went into Ms.  
5 Legra's classroom when she was in first grade during  
6 the 2012-2013 school year.

7 Q. Okay. And do you recall on what date  
8 you visited Ms. classroom--Ms. Legra's classroom  
9 during that school year?

10 A. It was on the date that' (sic) posted on  
11 this. I normally write the date that--on which I  
12 visit the teacher.

13 Q. Okay. And that date was January 17th  
14 2013?

15 A. Yes

16 Q. And what was the reason that you went  
17 into Ms. Legra's classroom on that date to observe  
18 her?

19 A. I went in just to see how she was  
20 doing her lessons. And like I said, that during last  
21 year with the common core learning standards being  
22 new, just in the classrooms just to see how--and just  
23 provide support to teachers with the new standards.

Nilda Francisco, the Literacy coach, testified. Her examination, included

877

2 Q. During the 2011-12 school year do you  
3 recall what grade Ms. Legra taught?

4 A. Kindergarten...

8 Q. During that school year, '11-'12,  
9 during which Ms. Legra taught kindergarten, did you  
10 work with her on an individual basis at all?

11 A. Yes.

12 Q. Okay. Can you tell us how you came to  
13 work with her on an individual basis during that  
14 school year?

15 A. She was one of the teachers that the  
16 administration identified at the beginning of the--of  
17 the year as a teacher that needed support.

18 Q. And on what areas did you work with  
19 Ms. Legra?

20 A. Reading and writing.

21 Q. Okay. Can you tell us about the  
22 nature of the work you did with her on an individual  
23 basis during that year?

24 A. We met to discuss reading and writing



25 and kindergarten in general. I came in to sit in on a

878

2 lesson being conducted by Ms. Legra and then we  
3 switched roles in which I would be the one modeling  
4 the lesson and Ms. Legra would watch me.

5 Q. Okay. How frequently did you meet  
6 with Ms. Legra during the '11-'12 school year?

7 A. On numerous occasions, I couldn't give  
8 you a specific number.

9 Q. Okay. Would you say that you met with  
10 her once a month, or more frequently than that, or  
11 less frequently than that?

12 A. I'd say about once a month.

13 Q. Okay.

942

20 Q. During the 2011-2012 school year, you  
21 testified that you gave one-on-one professional  
22 development to Ms. Legra?

23 A. Yes.

943

10 Q. Do you recall when you provided this  
11 one-on-one professional development to Ms. Legra in  
12 2011-2012?

13 A. Pretty much throughout the year, I  
14 couldn't give you specific days; on and off throughout  
15 the year.

16 Q. Did you keep a record of when you  
17 would provide one-on-one professional development to  
18 her during the '11-'12 school year.

19 A. No.

944

5 Q. I noticed through the documents that  
6 came into evidence there was some written materials of  
7 notes that you made during the '12-'13 school year but  
8 you didn't do any of that in the '11-'12 school year?

9 A. Not of my personal interactions with  
10 Ms. Legra.

11 Q. And we also--we didn't see any grade  
12 level professional development for kindergarten during  
13 the '11-'12 school year but you did provide that?

14 A. Yes.

15 Q. And that would have been for every  
16 kindergarten teacher?

17 A. Yes.

18 Q. Okay. Now, you testified earlier that  
19 you never observed Ms. Legra in an evaluative way.  
20 Can you please explain what you meant by that?

21 A. I'm not a supervisor, so I can only go  
22 in a classroom, pretty much just look at the teacher,  
23 and then offer suggestions. But I can't rate the  
24 teacher and say that was unsatisfactory. I could say,  
25 "Well, here is what I saw. Here are ways where, you

945

2 know, I think you could probably improve. Do you have  
3 questions for me? Do you want me to model for you?"  
4 That's--which is one of the reasons why I don't have  
5 written documentation because I can't go in a  
6 classroom and like literally take notes, observe what  
7 you're doing, and then give you a rating.

8 Q. So you didn't have any rating of Ms.  
9 Legra at all during your time that you worked with  
10 her?

11 A. No.

12 Q. Okay. Did Ms. Legra ever miss any of  
13 the individual professional development that she had  
14 with you?

15 A. Yes.

16 Q. And did you ever try to reschedule  
17 that professional development?

18 A. Yes.

19 Q. Did she in fact reschedule the  
20 professional development with you?

21 A. Yes.

22 Q. Did Ms. Legra ever refuse to meet with  
23 you?

24 A. No.

25 Q. Did she ever ask you for help?

946

2 A. Yes.

3 Q. When did she ask you for help?

4 A. Usually when I would go in and I would  
5 say--suggest things, she would say, "Well, can you  
6 provide me with materials for this? Can you provide  
7 me with more books on levels whatever? Can you  
8 provide me with an extra copy of X?"

9 Q. And did you actually provide her with  
10 those materials?

11 A. Yes.

12 Q. Do you know if she used those  
13 materials with her students?

14 A. I would say yes.

15 Q. Did you ever do any professional  
16 development with Ms. Legra on the topic of student  
17 discipline or student behavior?

18 A. No. I would give her pointers on  
19 things she could do to get--to have the children more  
20 engaged, but it still revolved around literacy.

21 Q. So, just to clarify, everything was in  
22 the context of literacy. There was nothing specific  
23 about student behavior?

24 A. No.

25 Q. What about with classroom management?

947

2 A. Same thing. I would have  
3 conversations with her on how having--during the  
4 literacy period, having routines established would in  
5 fact help with classroom management because if the  
6 students know exactly what they should be doing at X  
7 time then the chances of them not being engaged are  
8 slimmer because they actually know what they should be  
9 doing. So in that context yes.

10 Q. Okay. The material for first grade  
11 and pre K are very different from each other, correct?

12 A. Yes.

13 Q. Can you explain the differences  
14 between pre K and first grade material?

15 A. Pre K follows a completely different  
16 curriculum because pre K is funded by the state, not  
17 by the city. So the pre K curriculum is very specific  
18 to only pre K and the day is broken up completely  
19 different for them as well. K through 5 follow the  
20 same curriculum.

951

5 Q. Was your school affected at all by  
6 Hurricane Sandy?

7 A. Well, I mean yeah. Every school was.  
8 We were out of school for a week.

9 Q. And did that have any effect on the  
10 students?

11 A. Yes. I mean we--it put us behind the  
12 whole week, week and a half.

13 Q. Right. And Ms.--well, when did  
14 Hurricane Sandy happen?

15 A. October or maybe end of September,  
16 somewhere around there.

17 Q. I believe it was around the last week  
18 of October.

19 A. It was on Halloween. It was--yes.

20 Q. And that would have been just a couple  
21 of weeks after Ms. Legra took over the first grade  
22 class, correct?

23 A. Yes.

952

2 (Q.) She took over the class in October, correct?

3 A. Yes.

4 Q. And maybe three weeks later all of the  
5 students were out for a week?

6 A. Yes.

7 Q. You also spoke about a particular  
8 student that had disciplinary problems in Ms. Legra's  
9 class. Do you recall if that student's name was Ja.  
10 Va.?

11 A. Yes.

12 Q. You said that she like to hit other  
13 children. Do you recall how many times instances like  
14 that happened with Ja. Va.?

15 A. There were several. I couldn't give  
16 you a number.

953

21 Q. And you said that over the course of  
22 the 2012-2013 school year that you were in Ms. Legra's  
23 classroom four to five times because of behavioral  
24 issues?

25 A. Yes.

974

2 Q. Were they all because of Ja.?

3 A. Yes.

Counsel for Respondent argued

1820

13 Ms. Legra didn't even know that this was

14 supposed to be an observation until after Mr. Goodman  
 15 notified her that she was going to be scheduled for a  
 16 post-observation conference. She thought it was just  
 17 Mr. Goodman coming in to her classroom on one of his  
 18 routine visits, which also coincidentally, were all of  
 19 the time.

20 In fact, he had done one similar to this on  
 21 January 15<sup>th</sup>. It was only two weeks before, where he  
 22 had come and done the same thing. And furthermore,  
 23 Mr. Goodman thought the same thing. In Respondent's  
 24 Exhibit 33 and 34, he didn't call this a routine, or  
 25 did he didn't call this an informal observation. He

1821

2 called this a "routine classroom visit." You heard  
 3 from Ms. Legra that that was the only time he came  
 4 that day, and Mr. Goodman was trying to have it both  
 5 ways; come to her room and find a way to discipline  
 6 Ms. Legra, and also at the same time say that is was  
 7 supposed to be an observation.

8 Now when Mr. Goodman went to Ms. Legra's  
 9 room on this day, he already knew that she didn't have  
 10 lesson plans. And the reason why he knew she didn't  
 11 have lesson plans is because he took them the day  
 12 before, when he had to take over a classroom because  
 13 she had become ill and had to leave school. That's  
 14 reflected in Ms. Legra's email to Mr. Goodman in  
 15 Respondent's Exhibit 7, where she asks them for her  
 16 lesson book back. She had already planned for this  
 17 class and she didn't have a new lesson plan.

18 But Mr. Goodman already knew that and he  
 19 just disregarded it and claimed that that was a  
 20 problem. We also know that Mr. Goodman was supposed  
 21 to be giving Ms. Legra a formal observation during the  
 22 same exact time period. He promised her in an email  
 23 that is in Respondent's Exhibit 6. He never scheduled  
 24 the pre-observation conference. He never did a formal  
 25 observation. And when Ms. Legra asked him again for

1822

2 formal observation, he never responded back to her.

15 ...Observations are  
 16 supposed to be instructive and are supposed to support  
 17 the teacher, not be discipline.

d. March 21, 2013 - DOE 20 an Observation of a first grade class and testimony of Assistant Principal Goodman in support.

Assistant Principal Goodman's testimony, included

518

22 Q. Do you have any independent  
23 recollection of the lesson you observed on March 21<sup>st</sup>?  
24 A. I believe I do.

519

3 A. I recall Ms. Legra struggling with a  
4 student in the class, if I'm not mistaken. I recall  
5 observing those events and then having the opportunity  
6 to see Ms. Legra on the--or rather bringing her class  
7 to the rug for a lesson that used a big book, I  
8 believe. And I recall Ms. Legra attempting to show  
9 students how to deal with words that are I believe  
10 unfamiliar to them. And I recall students suggesting  
11 that they had experience with the book already prior  
12 to Ms. Legra reading it and attempting to model for  
13 students what that would look like in terms of how to  
14 deal with words that are unfamiliar to them. That's  
15 what I recall.

16 Q. Okay. Now what if anything concerned  
17 you about what you observed during this observation?

18 A. I recall walking into the classroom to  
19 again see students not engaged in anything meaningful.  
20 I recall seeing students behaving inappropriately. I  
21 recall Ms. Legra struggling with one student in  
22 particular and again I recall observing Ms. Legra  
23 attempting to teach something without any kind of  
24 reference or plans to facilitate the lesson. I felt  
25 as though she was improvising again in my presence.

520

5 Q. Now, turning your attention to the  
6 first paragraph of the observation report. In the  
7 first sentence you noted that you visited Ms. Legra's  
8 grade one classroom during a routine instructional  
9 walkthrough. Was--do you recall how long you stayed  
10 in Ms. Legra's classroom during this walkthrough?

11 A. I believe I was there for  
12 approximately 45 minutes.

13 Q. And, when you first entered the  
14 classroom, how long had you intended to stay?

15 A. Just a few minutes.

16 Q. If you had intended to stay for just a  
17 few minutes, why did you lengthen your stay in the  
18 classroom to 45 minutes?

19 A. Because I was observing behaviors and  
20 practices that had been mentioned to Ms. Legra  
21 previously and it was my professional obligation to  
22 documents those findings.

23 Q. Now you testified with regard to  
24 observing Ms. Legra struggling with a particular  
25 student in the class?

521

3 Q. Is that struggle what is referenced in  
4 the second sentence in the observational report where  
5 you write, "When I entered room 314, I observed you  
6 trying to grab something out of the hands of student  
7 J"?...

17 A. I recall Ja. holding onto something.  
18 It might have been something from her lunch box or her  
19 Lunch-able if I'm not mistaken. And Ja. apparently  
20 wanted to hold on to it and Ms. Legra was attempting  
21 to grab it out of Ja. hand's. It didn't appear to be  
22 anything that was dangerous in nature, that would have  
23 caused harm to Ms. Legra or Ja. So I was little  
24 unsure about why the struggle was taking place.

522

20 Q. Now, when you testified that you would  
21 have preferred not to see a situation where either the  
22 student or the teacher could be at risk, can you tell  
23 us why you were concerned about this particular set of  
24 events with regard to putting either of them at risk?

25 A. If the teacher is grabbing onto

523

2 something and the child is grabbing onto that same  
3 object and they are both pulling on it, either the  
4 child could fall back and get hurt and accuse the  
5 teacher of causing that injury or the teacher could  
6 wind up in the same situation where she stumbles as  
7 the child lets go of the object. And that's just not  
8 a safe situation.



9 A. Now, directing your attention to the  
 10 second paragraph of the observation report, you write  
 11 in the first sentence that, "The agenda or the flow of  
 12 the day in Ms. Legra's classroom indicated that the  
 13 students should have been involved in the readers'  
 14 workshop. Though I immediately observed a handful of  
 15 your students copying words into marble notebooks from  
 16 the small white board positioned in the meeting area  
 17 where the rug is located." Was the activity you  
 18 observed the children engaged in copying words into  
 19 notebooks consistent with the readers' workshop?

20 A. No, it was not.

21 Q. Okay. What type of activity would you  
 22 have expected to see the students engaged in for it to  
 23 have been consistent with the readers' workshop?

24 A. I would have expected to see students  
 25 engaged alongside the teacher using one text. I would

524

2 have expected to see students reading independently in  
 3 different places around the classroom while the  
 4 teacher is working alongside one student or a small  
 5 group of students. I would have expected to see a  
 6 teaching point or an aim that was consistent with a  
 7 reading instruction lesson.

525

12 A. It appeared as though Ms. Legra had no  
 13 control over the class and the majority of students  
 14 were not listening to her or paying attention to her  
 15 requests to move the class into the next part of their  
 16 day...

21 A. All right. The expectation is that  
 22 structure and routines are in place for getting the  
 23 attention of the class when it's necessary, and for  
 24 the purpose of moving students from one activity to  
 25 the next in a safe way and in a way that provides some

526

2 level of clarification for students about what's going  
 3 to happen next.

4 Q. Now, yesterday you testified that Ms.  
 5 Legra was assigned to this first grade class in late  
 6 September early October of the 2012-2013 school year?

7 A. Yes, I did.



8 Q. Going back to that time of year, can  
9 you tell us in this situation, where Ms. Legra or any  
10 teacher is assigned to a new class a few weeks into  
11 the school year or a month into the school year, about  
12 how long would you expect it to take for the teacher  
13 to establish routines?

14 A. We generally provide about a month to  
15 teachers in the beginning of the school year to  
16 establish those routines. So it would make sense at  
17 any point in the school year when a new teacher is put  
18 into place that there is that same amount of time  
19 provided for the opportunity to establish those  
20 routines.

527

7 Q. In your opinion, was Ms. Legra at all  
8 in any disadvantage in having been assigned to this  
9 class later in the school year than early September?

10 A. No.

11 Q. Can you explain why you have come to  
12 that opinion?

13 A. I believe that it was early enough in  
14 the school year to make that transition. If I recall,  
15 the 2012-2013 school year had quite a bit of downtime  
16 in the fall. I really mean days off actually, right,  
17 where students are away from school for holidays and  
18 things of that nature. I believe very strongly that  
19 the class that Ms. Legra inherited was a class where  
20 there were things in place already that were  
21 established by the teacher that left the class. So it  
22 wasn't as if Ms. Legra was starting from day one  
23 essentially.

528

15 Q. Okay. And by March 21<sup>st</sup> 2013 do  
16 you know how many students were in the class?

17 A. I believe there was 16 students on the  
18 official roster.

530

5 Q. Okay. Here you write, "After about  
6 six minutes of attempting to get your class settled  
7 you then direct them back to the rug area again." Why  
8 did you note the length of time that it took to--for  
9 Ms. Legra to get her class settled?

10 A. That seemed like a very long time for

11 a transition, given the fact that the class was very  
12 small.

13 Q. Okay. And about how long would you  
14 expect this type of transition from desks to the rug  
15 area. How long would you expect that to take?

16 A. I would say two minutes would be an  
17 appropriate amount of time.

531

9 A. I was under the impression that Ms.  
10 Legra was attempting to expose children to unfamiliar  
11 vocabulary, and that children appeared familiar with  
12 the text and familiar with the vocabulary and the  
13 book. So it seemed like a poor choice of a text to  
14 model for students how the teacher might go about  
15 figuring out a new word or an unfamiliar word that  
16 comes--that comes--that you come across in the text.

532

10 A. I think that making the decision in  
11 advance about what text would be appropriate for  
12 students, a text that they are unfamiliar with, that  
13 has some vocabulary words that they are in fact  
14 unfamiliar with would be the most appropriate way.  
15 Right? In addition to identifying a couple of steps  
16 that students can take to address those unfamiliar  
17 words in their own reading, right, and to be really  
18 clear about what those steps are so that students can  
19 go off and implement it in their own reading.

533

8 A. It's a simple fact that I did not  
9 observe students getting settled and taking out  
10 materials necessary to facilitate the work and  
11 beginning to read. I did not observe that.

535

4 Q. Did you include a section on  
5 commendable aspects of the lesson in this report?

6 A. I did not.

7 Q. And you tell us why you did not  
8 include that section?

9 A. Because I did not observe anything in  
10 the classroom that was worth of celebrating.

11 Q. ...

Can you explain why you

17 came to the conclusion that Ms. Legra was unwilling to  
 18 implement classroom management practices?  
 19 A. Because it was evident based upon my  
 20 time in the classroom on this particular day that  
 21 those practices were just still not in place. So  
 22 from the moment I entered the classroom seeing Ms.  
 23 Legra struggle unnecessarily with a student, to the  
 24 fact that students were just not listening to her in  
 25 order to move on from one activity to the next was

536

2 pretty evident.

538

4 Q. Now, eight lines down from the top of  
 5 this bullet point you write, "The lack of structure  
 6 and routines for your grade one students are  
 7 contributing to these significant and frequent  
 8 classroom management issues. This was demonstrated  
 9 during the two transitions I observed where the  
 10 majority of your students in your classroom did not  
 11 listen to you. Grade one students require strong  
 12 structures and routines to support their learning and  
 13 safety." Can you explain why you made this  
 14 recommendation to Ms. Legra with regard to structure  
 15 and routines?

16 A. Because that's just a common practice  
 17 in our school and we encourage teachers to ensure that  
 18 they have established these practices inside their  
 19 classroom, so that students can be successful and so  
 20 the teacher can be successful. And so that seemed  
 21 like a good starting point, to make sure that Ms.  
 22 Legra was really clear that she had a system in place  
 23 for gaining the attention of her students, so that  
 24 they could stop talking or stop doing what it is that  
 25 they are doing and hear her instructions about what

539

2 needs to happen or what needs to happen next.

541

3 A. It was evident that planning and  
 4 preparation were still something that she was  
 5 struggling with as a seasoned classroom teacher. And  
 6 that by observing or by taking a look at her lesson  
 7 plans at the start of her week, the administration

8 could make a decisions around whether or not the  
 9 teaching points and any additional information tied to  
 10 that teaching point was in fact aligned with the  
 11 curriculum just as a--as a very basic way to ensure  
 12 that the first grade class was getting what they need.

13 Q. And did Ms. Legra, following this  
 14 observation report, submit lesson plans to you?

15 A. I recall her submitting lesson plans  
 16 once following this observation report.

542

15 A. The fact that the book appeared to be  
 16 chosen randomly and that there was no evidence that  
 17 the teacher had identified words in the text or parts  
 18 of the text that were going to support the  
 19 instructional approach. So to see--I believe I write,  
 20 you know, post-its, for example, to identify pages.  
 21 That would be something that I would expect to see  
 22 with respect to lesson of this nature.

544

13 A. I--again, there were certain  
 14 expectations in place with respect to classroom  
 15 environment tied to evidence of current units of  
 16 study. So to be able to observe charts that are  
 17 aligned with the work that was underway at this point  
 18 in the year would have been important, to see charts  
 19 that just support expectations in place by the  
 20 teacher. So what it is that, for example, students  
 21 need to be doing during independent reading. Those  
 22 kinds of things in addition to some of the other  
 23 things such as just the cleanliness of the classroom,  
 24 the word wall supports for English Language Learners,  
 25 things of that nature that are relevant.

550

21 A. Yes. So I recall Ms. Legra suggesting  
 22 that the students in her class had needs that required  
 23 more restrictive settings. So Ms.--I recall Ms. Legra  
 24 alluding the fact that there were some students that  
 25 needed to be in special education in the class, as

551

2 well as students that needed services such as speech  
 3 and other forms of therapy, in order for them to be  
 4 successful students.

5 Q. Okay. And how does that concern  
6 relate to your recommendation here and concern about  
7 her book baggies?

8 A. Because Ms. Legra was making excuses  
9 for all of the things that were not in place inside of  
10 her classroom and she was making excuses for the  
11 students not learning in her classroom.

552

8 A. I don't recall Ms. Legra ever  
9 submitting required documentation relevant to any of  
10 the students that were of concern to her.

11. Q. ...

13 Can you tell us why you gave  
14 this lesson an unsatisfactory rating?

15 A. Because it lacked evidence of the  
16 teacher implementing the instructions for improvement  
17 that had been made in previous observation reports,  
18 that were required expectations for teaching across  
19 the school. It was also rated unsatisfactory with  
20 respect to the annual rating sheet and looking at  
21 those individual categories where teachers need to  
22 show a satisfactory level of performance. And this  
23 lesson fell short in many of those categories.

Respondent's testimony, included

1252

22 Q. Ms. Legra, do you recognize what's in  
23 evidence as Department's Exhibit 20?

24 A. Yes.

25 Q. And what do you recognize Department's

1253

2 Exhibit 20 to be?

3 A. It's an informal observation...

17 Q. What recollection if any do you have  
18 of Mr. Goodman coming to your classroom other than  
19 when you called for help with Ja.?

20 A. I don't have any of him coming in  
21 other than when I called for Ja.

1254

- 3 A. Yeah, he came in that day but I think  
4 he did come in just that once when I called for help.  
5 Q. And on page two of Department's  
6 Exhibit 20 under "Instructions for improvement," Mr.  
7 Goodman wrote "When I entered your classroom you were  
8 involved in a struggle with student J. as you were  
9 attempting to physically take something away from her  
10 that she did not want to relinquish. J. was not  
11 causing harm towards her classmates or you, so it was  
12 not clear to me why you were adamant about taking an  
13 item away from her that she clearly needed to hold."...
- 15 Is student J., Ja.?  
16 A. Yes.  
17 Q. And what is your recollection of what  
18 Ja. was holding that you were trying to take away from  
19 her?  
20 A. The juice.  
21 Q. And what was Ja. doing with the juice  
22 at that time?  
23 A. She was wetting other children in the  
24 classroom.  
25 Q. And what opinion if any do you have

1255

- 2 about Ja. wetting other children with the juice had  
3 towards harm towards her classmates?  
4 A. Harm? Well, she was--she was wetting  
5 a good group of students that were on the carpet with  
6 the juice.  
7 Q. And why did you find that  
8 inappropriate?  
9 A. Well, because I had to send students  
10 down to maybe call home for a change of clothes or go  
11 to the restroom to wash off. Prior to that in the  
12 morning she was throwing desks over...

- 25 Q. And what is your recollection of what

1256

- 2 was discussed during that post observation conference?  
3 A. My failure to have plans, my failure  
4 to have charts, my failure to properly manage a  
5 classroom, all of that.

6 Q. And were there up-to-date charts in  
7 your classroom at that time?

8 A. Yes.

9 Q. And what if anything did you do to  
10 plan your lesson for March 21<sup>st</sup>, 2013?

11 A. Well, I always planned for my reading  
12 workshop, my writers' workshop, so everything was  
13 planned for March 21<sup>st</sup>, 2013.

14 Q. And what effect if any did Ja.'s  
15 behavior have on your ability to implement your lesson  
16 plan for that day?

17 a. Well, the students were way off task  
18 when they were getting wet. They were also way off  
19 task from the beginning when Ja. was posing a threat  
20 to them by throwing things and by turning the desks  
21 over.

22 Q. And can you please state for the  
23 record the date that this---Exhibit  
24 20 was provided to you?

25 A. April 10<sup>th</sup>, 2013.

1260

22 Q. And what do you recognize Respondent's  
23 Exhibit 12 to be?

24 A. It is an email addressed to Mr.  
25 Goodman.

1261

2 Q. And who is it from?

3 A. From myself.

4 Q. And can you please state the date of  
5 the email contained in Respondent's Exhibit 12?

6 A. April 11<sup>th</sup>, 2013.

7 Q. And on Department's Exhibit 20 you had  
8 referenced a response--an email addressed to Mr.  
9 Goodman on April 9<sup>th</sup>. Is this the email that you were  
10 referencing?

11 A. Yes.

12 Q. Is there a reason why you wrote April  
13 9<sup>th</sup> instead of April 11<sup>th</sup>?

14 A. Well, there was another incident of  
15 April 9<sup>th</sup> where he had to come into my room--where he  
16 came into my room.

17 Q. Is this the only response that you  
18 sent regarding this observation?

19 A. I believe so. I don't recall.

20 Q. Okay. And, Ms. Legra, can you--it  
 21 says "On two separate occasions I have called the  
 22 office to ask for help with Ja. Va. and you have  
 23 appeared with a yellow note pad and pen. These two  
 24 incidents took place on March 21<sup>st</sup> and on April 9<sup>th</sup>."  
 25 Is that what you were just referring to when you said

1262

2 there was two incidents?

3 A. Yes.

4 Q. And do you recall the incident with  
 5 Ja. Va. on April 9<sup>th</sup>?

6 A. yes.

7 Q. And what occurred on April 9<sup>th</sup>?

8 A. On April 9<sup>th</sup> she was kicking other  
 9 students and she was climbing on the table.

10 Q. Did any of the other students in your  
 11 class--which students if any in your class also  
 12 climbed on the tables?

13 A. No one.

14 Q. And when you state, "You appeared with  
 15 a yellow notepad and pen," who is that in reference  
 16 to?

17 A. Mr. Goodman...

23 A. "On March 21<sup>st</sup>, Ja. Va. was hitting  
 24 other students and throwing chairs, pencils, pulling  
 25 desks over, and wetting the other students with the

1263

2 juice she was drinking from in her hand. She was also  
 3 throwing a cookie she had brought for lunch. I  
 4 informed the office that I--that Ja. Va. was out of  
 5 control, exhibiting violent behavior towards others,  
 6 and specifically stated what she had done. When my  
 7 attempts to calm her down failed and she punched me, I  
 8 called the main office for help. I spoke with C.P."

9 "The following day on March 22<sup>nd</sup> I was  
 10 called to a meeting based on my classroom observation  
 11 on March 21<sup>st</sup>. In this meeting, I asked if I -- if it  
 12 would be to disciplinary action so that I could  
 13 acquire my union representative and you said no.  
 14 During this meeting, you stated that your observation  
 15 on your visit would be to a U rating and this would be  
 16 placed in my file."

17 "On April 9th, the same occurred only this



18 time you walked in with a yellow pad and pen but you  
 19 stated that the secretary had something for me to  
 20 sign. Despite the call I had placed to the school  
 21 secretary that morning of a family member's passing  
 22 and my call to the office based on Ja. Va's violent  
 23 behavior, there was no response. You came into the  
 24 room, stayed with my class, and sent me to sign for  
 25 the observation dated March 21<sup>st</sup>. I'm asking for

1264

2 another observation based on the aforementioned  
 3 circumstances."...

24 Q. When, if ever, did Mr. Goodman respond  
 25 to the e-mail that is contained in Respondent's

1265

2 Exhibit 12?

3 A. He responded with the informal  
 4 observation...

15 What is your recollection about any discussion that  
 16 you had with Mr. Goodman regarding a formal  
 17 observation subsequent to the e-mail that is contained  
 18 in Respondent's Exhibit 12?

19 A. I was still awaiting the observation  
 20 that he mentioned that he was going to give me.

21 Q. Is that the observation in January  
 22 that you're -- that you're speaking about?

23 A. Yes.

24 Q. And approximately how much time had  
 25 passed from when he promised you a formal observation

1266

2 and this e-mail?

1812

Counsel for Respondent argued

24 Mr. Goodman used to promise Ms. Legra that  
 25 he was going to perform a formal observation of her,

1813

2 in particular in the middle of the 2012-2013 school  
 3 year. He never followed up on his promise. This

4 would have allowed Ms. Legra the ability to come up  
 5 with a formal lesson plan in conjunction with the  
 6 school administrators at PS 173 in order to show them  
 7 that she was implementing the items that she was  
 8 learning and the grade level professional development  
 9 in her classroom.

10 She was never given the opportunity.  
 11 Instead, Mr. Goodman would just come to her class on  
 12 what was labeled an informal observation but at the  
 13 same time he would call those informal observations  
 14 routine classroom visits and would send her  
 15 disciplinary notices for the same day. Ms. Legra  
 16 would call the office to complain about student  
 17 behavior and then Mr. Goodman would come to her class  
 18 and write her up for something. He was constantly  
 19 summoning Ms. Legra to the office for disciplinary  
 20 conferences.

1823

2 This was another informal observation by Mr. Goodman,  
 3 at least he claims it was an observation. This was  
 4 again, was not a real observation. Mr. Goodman only  
 5 came to Ms. Legra's classroom because she had called  
 6 for help from the main office for help with Ja. Va.,  
 7 because Ja. Va. Was jumping up and down on desks. She  
 8 was rolling desks over. She was squirting other  
 9 students with her juice box.

10 And then there was commotion going on from  
 11 the fact that Ja. Va. was misbehaving, was causing the  
 12 other students in the class to misbehave. So instead  
 13 of coming to assist with Ja. Va. And getting the  
 14 students under control, Mr. Goodman comes with his  
 15 notepad and writes an observation report. This is  
 16 completely unfair. This is not, Mr. Goodman knew that  
 17 there was problems going on in Mr. Legra's classroom  
 18 at this very time that he came in there

1824

3 ... You heard testimony from Ms. Legra that she  
 4 had, on the day that this observation report was  
 5 written, which was in April of 2013, she called that  
 6 day complaining about Ja. Va. again.

7 And Mr. Goodman came to her class again that  
 8 day, observed her, and then the next day she received  
 9 the observation report that's reflected for March  
 10 21<sup>st</sup>, 2013. And then there is the June 4<sup>th</sup>, 2013,

11 observation...

13 ...It occurred

14 almost seven months after the first formal observation  
15 that Ms. Legra received. That's how much they were  
16 interested in finding out whether or not Ms. Legra had  
17 corrected any of her purported deficiencies.

18 They waited until the end of the school  
19 year. It was done solely so that Ms. Boursiquot (sic) and  
20 Mr. Goodman could finish papering their file with  
21 another formal observation. Furthermore, it was a  
22 good lesson. Ms. Legra did exactly what they asked  
23 her to do. She thoroughly planned a lesson on with  
24 the math curriculum. She properly used manipulatives  
25 in order to teach her lesson. She provided Ms.

1825

2 Boursiquot and Mr. Goodman with a written lesson plan,  
3 as they requested. She even used a proper  
4 worksheet, which is Respondent's Exhibit 36, which was  
5 provided to her the math coach Ms. Serrati  
6 [phonetic]...

17 And then in that report, there is all this  
18 information from Ms. Boursiquot saying that -- about  
19 classroom environment, things like that, and that she  
20 was going to assign Ms. Zenos [phonetic] to provide  
21 professional development to Ms. Legra in a classroom  
22 environment. This report was written on June 21<sup>st</sup>.  
23 It was the absolute end of the school year. There is  
24 no way that Ms. Legra was going to get any type of  
25 meaningful professional development from June 21<sup>st</sup>

1826

2 until the end of the school year.

3 And then Ms. Boursiquot sat here and told  
4 you that she actually did assign Ms. Zenos to provide  
5 that professional development to Ms. Legra. She was  
6 emphatic about it. She said that it was hands on and  
7 that she knew that Ms. Zenos had done that. Now Mr.  
8 Goodman came in a couple of days later and said that  
9 that wasn't true, it was at the end of the school  
10 year, and that Ms. Zenos was never assigned to  
11 actually provide this professional development.

1827

2 ...there is no evidence of notice of the  
3 purported deficiencies in Ms. Legra's teaching prior  
4 to the date of the observation.

1832

19 ...We also heard about the fact that  
20 the first couple of weeks of the school year are  
21 crucial for a teacher, even the greatest teacher, to  
22 set up routines and set expectations in her classroom.  
23 Ms. Legra was deprived of that time period  
24 with her class. She missed the entire first month of  
25 school.

1833

10 The first few weeks of school are still the  
11 first few weeks of school, and they're very important.  
12 Then Ms. Legra takes over the class and New York City  
13 is hit with Hurricane Sandy, one of the biggest  
14 natural disasters we've had, and her students are  
15 again out for another week at the same time when she  
16 is trying to establish her routines. She didn't have  
17 sufficient time with her students at the beginning of  
18 the year to be able to set her routines...

23 ...We are not  
24 taking about high school students who can easily  
25 adapt to a new teacher. We are talking about five

1834

2 year olds who had gotten used to their original  
3 teacher, had her removed, have a new teacher put in,  
4 and then continue to miss time from school because of  
5 things like Hurricane Sandy. Obviously the beginning  
6 of Ms. Legra's school year was not typical and is not  
7 the easiest way to set up routines.

8 Continuing with the students that caused  
9 behavioral problems in her class, we get to Ja. Va.  
10 Now every Department witness who came in during the  
11 case in chief discussed Ja. Va. And the fact that she  
12 caused a lot of disciplinary problems in Ms. Legra's  
13 classroom during the 2012-2013 school year. We heard  
14 about the fact that on March 18<sup>th</sup>, 2013, Ms. Legra had  
15 to put Ja. Va. into a hold because she was throwing a  
16 temper tantrum and she was kicking and punching  
17 herself and other students on that day.

18 Similar events occurred with Ja. Va. on  
 19 March 20<sup>th</sup>, 2013, that are reflected in Respondent's  
 20 Exhibit 20 and Respondent's Exhibit 21. On both of  
 21 those occasions Ja. Va. kicked Ms. Legra in her leg to  
 22 the--and injured her to the point to where she had to  
 23 fill out an injury report. We also heard that on  
 24 March 21<sup>st</sup>, 2013, Ja. Va. was hitting other students,  
 25 she was throwing chairs, she was rolling desks over

1835

2 and was wetting other students with her juice box  
 3 That's reflected in Respondent's Exhibit 12.  
 4 What's the response to the school by that?  
 5 They sent Mr. Goodman to come to her classroom and  
 6 observe her. On April 9<sup>th</sup>, 2013, there was similar  
 7 violent behavior again by Ja. Va. Ms. Legra called  
 8 the office and the response was again to send Mr.  
 9 Goodman to observe her. Now this didn't result in  
 10 another observation report for April 9<sup>th</sup>, 2013, but  
 11 what did happen was Mr. Goodman wrote the March 21<sup>st</sup>,  
 12 2013, observation report.  
 13 On May 20<sup>th</sup>, 2013, we heard about how Ja.  
 14 Va. pulled her friend's hair and was swinging her  
 15 backpack at students. That's contained in  
 16 Respondent's Exhibit 22 and also Ms. Legra testified  
 17 about that. She called the office again about Ja.  
 18 Va's behavior and took them over an hour to send  
 19 someone down to the classroom to deal with Ja. Va.  
 20 And it wasn't even Mr. Goodman or Ms. Boursiquot or  
 21 Mr. Addis. (sic) They sent the security officer down and  
 22 none of the administrators actually showed up about  
 23 that.

1838

4 ...Ms. Legra wasn't assigned to turn in her  
 5 lesson plans until April 10<sup>th</sup>, 2013. The first day  
 6 that Ms. Legra was required to turn in her lesson  
 7 plans as they were specified in this charge by the  
 8 Department's own Bill of Particulars was June 4<sup>th</sup>,  
 9 2013.

10 You have seen Ms. Legra's lesson plan from  
 11 June 4<sup>th</sup>, 2013. We know that the Department received  
 12 it because we have the date, the Bates stamp page that  
 13 they sent. So clearly Ms. Legra did comply to the  
 14 extent that she is being charged. Furthermore, Ms.  
 15 Legra did lesson plan for her class, it's just not in

16 the manner that Ms. Boursiquot and Mr. Goodman now say  
17 that they wanted. They didn't provide Ms. Legra with  
18 any instruction on what they would have -- what they  
19 wanted done differently.

20 They just said that they were incomplete or  
21 weren't there, even when Ms. Legra would show them her  
22 lesson plans, or in the case of February 2013, when  
23 Mr. Goodman had the lesson plan book. And then he  
24 claimed that they weren't there...  
25 Ms. Legra is not

1839

2 required to lesson plan in a particular way or manner,  
3 and is not required to submit her lesson plans unless  
4 it's part of a program to improve her deficiencies.  
5 Now for whatever purported deficiencies Ms. Legra may  
6 have, this never came as part of an assignment to her  
7 until April 10<sup>th</sup> of 2013, the tail end of the school  
8 year.

1841

8 ...There is no evidence in  
9 the record, other than conclusory statements by Mr.  
10 Goodman and Ms. Boursiquot about Ms. Legra's classroom  
11 environment. All they claimed was that the classroom  
12 environment didn't align to the curriculum at the  
13 time.

14 They didn't know what was on the walls.  
15 They didn't know the subject. They couldn't say why  
16 any of the problems were or what wasn't aligned, or  
17 what exactly the problems were.

Mr. Rodriguez the Chapter Leader and Teacher, on direct examination, testified

991

5. Q. Mr. Rodriguez, in your position as UFT  
6 chapter leader do you have independent knowledge of  
7 the relationship between Ms. Boursiquot and the  
8 teachers in the school?

9 A. Yes, I do...

With regard to R13, a NYC Department of Education School Survey 2012-2013 Report  
relating to P.S. 173, he testified

992

22. Q. So 61% of the teachers at PS 173  
23 disagreed with the statement, "I trust the principal  
24 at his or her word?"  
25 A. Yes, that's correct.

The Transcript also reflects

994

21. MR. DEL PIANO: Roughly 25 to 30 teachers.  
22 THE HEARING OFFICER: Were the participants  
23 in the survey?  
24 MR. DEL PIANO: Correct.  
25 THE HEARING OFFICER: And then it's 61% of

995

- 2 the number who participated?

On cross examination he testified

- 17 Q. Okay. And you testified that when Mr.  
18 Del Piano asked you about the results that 61% of the  
19 teachers that took the survey disagreed with the  
20 statement "I trust the principal at his or her word?"  
21 A. That's correct, yes.  
22 Q. And that would be 61% of the 24  
23 teachers that took the survey?  
24 A. Of the ones who participated, yes.

999

- 7 MS. SZEKELY: ...  
  
11 So at the school it  
12 appears that 24 teachers took the survey.  
13 THE HEARING OFFICER: That matches the 48%?  
14 MS. SZEKELY: Yes.

Mr. Rodriguez testified

1005

- 5 Q. In your opinion was Ms. Legra one of  
6 those teachers targeted by Ms. Boursiquot?  
7 A. Yes.  
8 Q. And upon what facts do you base that  
9 opinion?  
10 A. The number of times that the  
11 administrators have visited her classroom and the



12 number of times that they've written letters to her,  
13 and the number of times that she's gone into  
14 disciplinary meetings.

1007

2 Q. What if any importance do you put on  
3 the first few weeks of school in establishing routines  
4 in the classroom?

5 A. Well, it's very important. You have  
6 to get to know your population. You have to get to  
7 know your parents. You have to instill routines in  
8 the children and what to follow for the year. And if  
9 it's like this year where you have a new curriculum,  
10 you have to instill that with the children also. It's  
11 very important.

12 Q. What if any disadvantage would a  
13 teacher have who missed the first few weeks of school?

22 A. If it's a matter of weeks later it  
22 could disrupt not only the teacher but the class  
23 itself because you're getting everything new. If I'm  
24 getting a new assignment in October and November, it's  
25 like day one. So I'm already six weeks behind.

1014

17 Q. What if anything do you recall about  
18 complaints regarding student behavior during the 2012-  
19 2013 school year?

20 A. Normally when we have students who are  
21 disruptive we have to report it to the administrators  
22 and the administrators follow up on that.

23 Q. What if anything would the  
24 administrators do if they felt that a teacher called  
25 too often about a student?

1015

2. A. Depending if the teacher was targeted  
3 by administration, the norm is that they would do  
4 everything to try to alleviate the problem or transfer  
5 the student out of that class into another class to  
6 see if the change of scenery might help the student.

7 Q. What would happen if the teacher, as  
8 you characterize, was targeted?

9 A. Well, let's say we have four teachers  
10 on the grade. Okay? A teacher would have the kid for a month.  
11 Maybe a month, another teacher a month. If the



12 teacher is targeted, they'll make sure that they'll  
13 keep that child in there for a longer period.

1016

10 Q. What if any opinion do you have about  
11 Ms. Legra's ability to manage her classroom?

12 A. Ms. Legra is, as I said before, she's  
13 a professional. She's an educator and she can handle  
14 behavior problems. But, if you're consistently being  
15 put (sic) behavior problems or given more than other  
16 teachers that will affect anybody's management,  
17 classroom management, no matter how good the teacher  
18 is.

Mr. Rodriguez, on cross examination, testified

1022

Q. Okay. If a teacher receives an  
unsatisfactory rating, would it be a fair practice to  
go in to observe the teacher again to see if they had  
made any improvements from the last rating?

A. Yes.

e. June 4, 2013, DOE 6, and observation of a first grade class and Testimony of  
Principal Boursiquot and Assistant Principal Goodman in support.

This was a joint observation by the Principal and Assistant Principal. The  
examination of Principal Boursiquot reflected

157

4 Q. And who conducted this observation?

5 A. This was conducted by myself,  
6 alongside the assistant Principal for daily  
7 instruction, Mr. Goodman [phonetic].

8 Q. And why did you and Mr. Goodman  
9 conduct an observation together?

10 A. Sometimes we, well oftentimes, not  
11 sometimes, oftentimes we do joint observations just to  
12 assure that we're seeing the same things and have  
13 discussion and have a different lens, all right, so.

14 Q. And when you say you often do a joint  
15 observations, how frequently would you say that you  
16 observe a lesson along with Mr. Goodman?

17 A. I would say we try to do one for every

18 teacher who might be either a probationary or an  
19 unsatisfactory teacher.

20 Q. And when you and Mr. Goodman conduct  
21 an observation, can you tell us what goes in to the  
22 writing of the observation report?

23 A. Well, after we - - to the writing of it?  
24 After we observe, we go back. We review, we have each  
25 person taking notes, and we have a discussion between

158

2 us about what we saw what we noted.

3 Q. Okay. And for this observation  
4 report, do you recall who write - - wrote the report?  
5 Did one of you write it or did you both write it?

6 A. We, I want to say we wrote it  
7 together, because we did consult with each other on  
8 the writing. Mr. Goodman actually typed it on the  
9 computer.

10 Q. Okay. And if Mr. Goodman typed it on  
11 the computer, did you read the observation report  
12 prior to it being given to Ms. Legra?

13 A. I've seen it several times before.

159

13 Q. So it states, "while you were required  
14 to submit your lesson plans every Monday following  
15 your last unsatisfactory observation, to facilitate  
16 professional assistance relative to your teaching  
17 practice, you have failed to take advantage of this  
18 opportunity for professional development." Can you  
19 tell us when Ms. Legra was - - when this requirement to  
20 submit lesson plans began?

21 A. It began as a result of her - - an  
22 observation that was conducted, I believe, by Mr.  
23 Goodman.

24 Q. Okay. And to whom was Ms. Legra  
25 required to submit her lesson plans?

160

2 A. She was required to submit them to me...

11 Q. No, she did not submit some?

12 A. No, she did not submit. She - - I  
13 believe she submitted one once, and that was it.

163

4 Q. Now in the first full paragraph on  
 5 page 50, Bates page 52, and the paragraph begins, "We  
 6 entered your classroom." In the second sentence you  
 7 write, and the sentences that follow, you write, "You  
 8 were in the process of telling students to transition  
 9 to their rug spots. The students were also told to  
 10 bring pencils to the rug, so there were students  
 11 attempting to locate and sharpen pencils. The pencils  
 12 were not easily accessible for all students, nor were  
 13 they used at the rug."

14 Can you tell us what significant about  
 15 Ms. Legra asking the students to bring pencils with  
 16 them to the rug?

17 A. Typically you don't do that. When the  
 18 children are writing, they usually write at their  
 19 desks, unless they are writing on whiteboards, which  
 20 you know, we provide markers for. But certainly, you  
 21 know, what also brought to mind was that that was no  
 22 prepared ahead of time, that if that's what your  
 23 intention was, to have children bring pencils to the  
 24 carpet, then that should have been done, you know,  
 25 ahead of time. Or you provide the pencils as a way to

164

2 do it.

3 Q. Okay. And what if anything was  
 4 significant about the student sharpening pencils?

5 A. It just took an extraordinary amount  
 6 of time. It's, you know, just a lot of down time with  
 7 that, and the children out of their seats doing that.  
 8 It delays everything.

9 Q. Now going on towards the bottom of  
 10 this one paragraph, it states, from the sixth line up  
 11 from the bottom, "You then went to the closet to  
 12 retrieve something which apparently was necessary to  
 13 teach the lesson already underway." Why was it  
 14 significant to note that Ms. Legra went to the closet  
 15 to retrieve something for this lesson?

16 A. Because as I indicated, that she  
 17 didn't have all of the materials ready to teach the  
 18 lesson. So it is, it speaks to the being prepared.

165

6 Q. ...Can you tell us what  
 7 concerned you about the fact that there was vocabulary

8 and instruction specific to the worksheet that had not  
9 previously been addressed?

10 A. If you are asking children to complete  
11 a worksheet and you're giving them a worksheet to go  
12 back, to go up to their desks and complete, it seems  
13 if any vocabulary that you're -- that the child will --  
14 would encounter would have been addressed prior,  
15 considering again that these are first grade students,  
16 that you would hope that it would certainly be  
17 addressed sooner. And again, a lack of preparedness  
18 and planning, planning in this case.

166

3 ...Can you tell us  
4 what concerned you about the fact that the lesson  
5 plan, the lesson, and the independent practice didn't  
6 match?

7 A. The lesson plan that I was given, Mr.  
8 Goodman was given, right? That was to match this  
9 lesson and the activity that the children were engaged  
10 in and what Ms. Legra actually did at the meeting  
11 area, which is where we have the direct instruction.  
12 It was all different. And so then that, again the  
13 question is how was this planned? You know, so...

19 A. They're not going to learn it. If  
20 you're at the carpet with children and you're teaching  
21 them or modeling or showing them one -- something to do  
22 and then set them off to go do something completely  
23 different, there's no connection. There's no value in  
24 that whatsoever. And most of the children were not  
25 even able to do the work or complete the worksheet

167

2 that was given to them...

13 Q. And what concerned you about the fact  
14 that something that was in the teaching point didn't  
15 actually take place in the lesson?

16 A. Because that's what's before the  
17 students and they're looking up there. And also that  
18 is what the observer is expecting to see, right? And  
19 it's not -- but certainly the children, if you're  
20 telling them that's what you're going to be doing,  
21 then you should be referring to that teaching point  
22 and you're doing something else. It's very confusing

23 for children.

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10 A. Right. What happened during this  
11 lesson is evidence that she was not thoroughly  
12 planned. Previous instructions for improvement were  
13 for her to thoroughly plan lessons and then ultimately  
14 to submit to me, so that we could have a discussion  
15 and I could provide some professional development  
16 support to her. And the necessity of that - - which she  
17 did not follow through, which she did not do, which  
18 shows that she did not want to change this aspect of  
19 her teaching, or professional practice, should I say.

20 Q. Now in the next sentence, it states,  
21 "Although you have been required to submit your lesson  
22 plans for review every Monday in the weeks leading up  
23 to this lesson, you are, "and it's emphasized again,  
24 "being directing to a weekly conference alongside the  
25 coaches and Mr. Goodman on a day and time to be

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2 determined to discuss your lesson plans and your  
3 lesson and communication techniques." Why was this  
4 directed to - - why was this directive made to meet with  
5 Mr. Goodman and review - - and the coaches and review  
6 lesson plans?

7 A. For the purpose of providing  
8 professional development to Ms. Legra again. And  
9 having Mr. Goodman there as the assistant principal  
10 who, you know, certainly would oversee specifically  
11 ELA instruction, but certainly oversees all  
12 instructions alongside me, that the coaches would also  
13 have support with Ms. Legra there, Mr. Goodman, and so  
14 that she could become better at planning. And that  
15 was -- the purpose was for support, okay?...

23 ...Can you tell us what you  
24 would have expected Ms. Legra to be doing during the  
25 time that the students were working on their

170

2 worksheets?

3 A. During independent practice, which is  
4 what this worksheet was supposed to be, a teacher  
5 should be monitoring what is going on. And the way  
6 they monitor is that to look at students, to have

7 conversations with students or to confer with them.  
 8 If she had just walked around and looked in or checked  
 9 in with students, she would have seen clearly that  
 10 they were not able to complete this task. She may  
 11 have also noted that it didn't match what she was  
 12 teaching at, you know, at the area or trying to convey  
 13 to students at that area.  
 14 And maybe, you know, would have refined her  
 15 next steps to say you know what? Let's not do this  
 16 worksheet. Let's do something else. So all of that  
 17 was not - - was a missed opportunity.

171

7 Q. Now in a sentence, the last sentence  
 8 before the underlined words in this paragraph, you  
 9 write, "No effort or attempt was made to confer while  
 10 students completed the worksheet." Can you explain  
 11 what you mean by "conferring?"

12 A. Conferring is having a conversation  
 13 with the child, one child, about the work underway.  
 14 Or about, for example, in this instance if he was  
 15 working on this worksheet you would have a  
 16 conversation about his thinking, asking him questions,  
 17 trying to get some clarification. You are also  
 18 recording what the child is saying, you are recording  
 19 notes. That's a means of assessing during  
 20 instruction.

21 Q. Okay. And why would you have expected  
 22 to see Ms. Legra conferring with students during this  
 23 particular worksheet practice?

24 A. That's a practice that is required  
 25 during interview practice.

172

2 Q. Now in the sentences that follow  
 3 which are underlined, you refer to training alongside  
 4 staff developers, coaches and colleagues with respect  
 5 to this instruction requirement. Can you tell us why  
 6 there is a reference to professional development and  
 7 training that had been given to Ms. Legra in this  
 8 observation?

9 A. It's important to note that Ms. Legra  
 10 was - - has received extensive professional development  
 11 in how to confer, and yet chose not to. To understand  
 12 the reason, reasoning behind it, not conferring as  
 13 assessing instruction, and it just - - and also to just

14 let her know that we will continue to support you in  
15 this effort...

22 A. Well, you expect to see student work  
23 hanging up that reflects the current unit. I would  
24 expect to see charts that would aid students in  
25 completing work that's contained in this mathematics

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2 unit of study. And there were no charts or any  
3 display of student work, but specifically the charts,  
4 which are their instructional aides to children. It  
5 was void of that in the classroom...

15 A. Because these classroom environment  
16 and the lack of charts to support the unit of study  
17 and the way it was noted, nothing was done about it.  
18 And the taking time later, still nothing was done  
19 about it.

174

3 ...Now it states that, "You will  
4 again need to visit other classrooms." Can you tell  
5 us when Ms. Legra was first, if you know, when Ms.  
6 Legra was first directed to visit other classrooms?

7 A. I can't specifically tell you a date  
8 when, but that is certainly the practice, where a  
9 teacher would have an inter-visitation...

14 ...But she has been  
15 directed before. I cannot recall the exact date.

16 Q. Okay. And why was Ms. Legra directed  
17 again to visit classrooms to determine physical  
18 characteristics?

19 A. Just to give her some idea, you know,  
20 ideas about what should - - what a classroom like that  
21 reflects the curriculum that's underway. That's one  
22 thing. The tidiness of the room is another. The  
23 organization of the tables and chairs and groups is  
24 another concern. As I said earlier, her desks were  
25 all one side. I don't know if that's really the best

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2 way to facilitate group work, which is the classroom  
3 arrangement. Just to give her other ideas from her  
4 colleagues of how a first grade classroom would look



5 and should look.

6 Q. Now in the -- on the next page, which is  
7 Bates page 55, in the first full sentence on the top  
8 of that page, it states, "Ms. Zeno [phonetic], our  
9 advisor will - - test coordinator, special projects  
10 liaison will be assigned to work with you weekly  
11 during a day and time to be determined for the purpose  
12 of addressing the issues that exist with respect to  
13 your classroom environment."...

176

4 A. Yes.

5 Q. Can you tell us why this lesson was  
6 given unsatisfactory rating?

7 A. Right. For everything stated in the  
8 observation report, the children were unable to  
9 complete a task. The children were confused.  
10 Children did not learn. And all of the reasons that  
11 were stated, the environment, lack of planning and so  
12 forth.

13 Q. Now this was an observation that was  
14 conducted by both yourself and Mr. Goodman. Whose  
15 decision was it to rate the lesson unsatisfactory?

16 A. It was a combined decision.

B. The DOE's evidence relating to running records in Specification "5)" [page 2, above] are DOE's 16, 18 and 36 and testimony of Assistant Principal Goodman and Literacy Coach Nilda Francisco in support.

The Specification references "letter dated June 23, 2012." The letter is DOE 18. It is referenced in Item No. 1 as substantiating in the Documentation Section 4, on page 2 of the Annual Professional Performance Review (DOE 4) signed June 22, 2012, as B4 on Page 1 ("Planning and Preparation of Work in Pupil Guidance and Instruction).

DOE 18, the letter sent to Respondent by Mr. Goodman stated

On February 1, 2012, Ms. Boursiquot and I met with you alongside your UFT Representative to discuss my findings during a routine classroom visit on Tuesday, January 31, 2012. During my classroom visit, I observed a number of concerns aligned with Independent and Partner Reading *and* the content of students' Book Baggies. This prompted me to request the actual Running Records that you as the



professional classroom teacher had administered prior to my visit. You were unable to produce *any* Running Records during my classroom visit. It was expected that Kindergarten teachers were in the process of formally administering Running Records.

Ms. Legra, you should be reminded of the critical role Running Records play in our whole class, small group, and individual instructional practice, particularly for Kindergarten students as this assessment was to be the first formal Running Record assessment of the school year.

We trust that moving forward, you will adhere to the required timeline outlined in all faculty correspondence issued by administrators and Coaches that aims to identify dates for important assessment work to be completed by. Additionally, we want to you ensure that a formal system is in place to organize all formal and informal assessment work; actual Running Records that are administered to students should be placed in a binder or folder.

Counsel for Respondent argued, on Page 1829 of the Transcript

2 Department's Exhibit 18, references a time in February  
3 of 2012. The letter itself was not generated until  
4 June of 2012. Therefore, under the collective  
5 bargaining agreement, this letter should not have been  
6 placed in Ms. Legra's file.

DOE 16 is a seventy page Package of the "Week Ahead" memo's to "P.S. 173 Community". The memo dated November 20, 2011 (Bates No. 270) included

Most importantly, we'll continue to use the data available to us to inform our next steps throughout the school; especially when it comes to Running Records and *assigned* Reading Levels.

The memo dated January 21, 2012 (Bates No. 281) included on page 1.

During our time in K - 2 classrooms this past week, we had the opportunity to:

...

Beginning to look carefully at the actual Running Records and in some cases, reassessing the Kindergarteners identified as Level A or Level B readers.

DOE 36, which is not dated, (Bates No. 339) includes:

Big Ideas to Hold on to (K-2) Across Reading *and* Writing

...

Reading

Hold off an administering formal running record and sight word assessments until mid to late September.

Ms. Francisco's testimony included:

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10 Q. Can you tell us what that (DOE 36) is?

11 A. This is sort of like an overview or a  
12 guideline that we normally pass out to teachers at the  
13 beginning of the year. There is one for teachers in K  
14 to 2 and there is one for teachers in grades 3 to 5.  
15 And it's just like, again as I stated before, an  
16 overview of ideas that you should be holding on to or  
17 paying attention to as far as reading and writing  
18 instruction is concerned.

19 Q. Okay. And who created this document?

20 A. I did.

900

9 Q. So tell us about the purpose of  
10 distributing this document to the K to 2 teachers at  
11 PS 173.

12 A. It's you could call it a reminder  
13 because none of the stuff that's written here is new  
14 to veteran teachers as we call them. For a brand new  
15 teacher I would have a meeting and sort of address  
16 each component and elaborate on each component.  
17 That's why it's bulleted and it's very sort of  
18 straight to the point, because it's a reminder of what  
19 our literacy curriculum looks like pretty much. Like  
20 the big things that need to be addressed in literacy  
21 and writing.

22 Q. Okay.

23 A. And literacy in general.

901

3 Q. -- the first bullet point states "Hold  
4 off on administering formal running record and site  
5 word assessments until mid to late September." Can  
6 you tell us about -- well, first, what are running

7 records?

8 A. Running record is a formal assessment  
9 that's administered to children and it's pretty much  
10 the child has a copy of a book in the lower grades and  
11 the teacher has a copy of - - a typed up copy of the  
12 book. And the child reads and the children - - and the  
13 teacher takes note on what the child is able to do  
14 with no assistance.

15 Q. Okay. And why in this bullet point  
16 does it state to hold off on administering formal  
17 running records until mid to late September?

18 A. Because when we get the children back  
19 in September they've been off for two months, two and  
20 a half months; most of them having been reading. If  
21 they're in kindergarten, most of them don't know how  
22 to read. They're - - that's one reason. Another reason  
23 is because they are coming into a classroom, to a  
24 brand new teacher, a person that they don't really  
25 know. So we give them those two weeks to get

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2 acclimated to the school setting, to get acclimated to  
3 their teacher, to become comfortable with the idea of  
4 holding a book, because it is very intimidating for a  
5 young child to just sit with an adult and the adult is  
6 just taking notes as the child is reading. So we like  
7 to give the children just those first two weeks to  
8 just again become acclimated and sort of get back into  
9 the groove (sic) of things. And then we begin formally  
10 assessing them but that does not happen in  
11 kindergarten however. In kindergarten we don't start  
12 that until January because it takes them a lot longer  
13 than a first or second grader.

14 Q. Okay. So tell us about how running  
15 records are administered in kindergarten.

16 A. The same way when we begin in January.

17 Q. Okay.

18 A. The child would hold a book, very  
19 simple. We start from letter A. There are just a few  
20 words on the page, like one simple sentence. It moves  
21 all the way up to level Z. And the child has an  
22 actual copy of a book. The teacher has a typed up  
23 copy of the book and the teacher just takes notes and  
24 marks off the words that the child knows, the ones  
25 that he doesn't know, what he does when he gets to a

903

2 word he doesn't know. But that doesn't start until  
3 January in kindergarten.

4 Q. Okay. And at what point in January  
5 does it begin?

6 A. Usually mid-January.

7 Q. Okay. And by the end of January what  
8 is the expectation for kindergarten running records?

9 A. The expectation is that the teacher is  
10 either completely done assessing the whole class or  
11 very, very close to being done. And then there is a  
12 step right after that because once we assess the child  
13 and we know the child's level we then prepare what we  
14 call a book baggie. And it's just pretty much a  
15 Ziploc bag with multiple books at whatever level it  
16 was determined that the child is at. And the child  
17 travels with the baggie back and forth to home and  
18 school, and reads those books during a certain period  
19 of the day.

Mr. Goodman's testimony included

440

17 A. So a running record is an assessment  
18 tool that is aligned with a particular level and that  
19 assessment is administered to a student to determine  
20 their reading level and ultimately, the level books  
21 that they should be reading.

22 Q. How long has P.S. 173 been using  
23 running records, if you know?

24 A. As long as I have been there.

25 Q. And can you tell us about the

441

2 expectations or a teacher's use of running records?

3 A. Right. The expectations for use are  
4 ultimately that teachers are not just assessing  
5 students, but they are analyzing those running  
6 records for the purpose of making instructional  
7 decisions that are relevant to the entire class,  
8 small groups of students, as well as individual  
9 students.

10 Q. And how are running records  
11 maintained?

12 A. Teachers generally maintain their  
13 running records, the actual running record document

14 whereas the list of students is submitted to school  
15 administrators as a means of accountability. So they  
16 hard copy stays with the teacher and a list of every  
17 student and their level goes to the administration.

18 Q. And what ultimately happens with the  
19 list that goes to the school administration?

20 A. It's analyzed and decisions are made  
21 around, you know, how many students are, you know  
22 reading on level, below level, above grade level and  
23 it's used as a means of determining the kinds of  
24 things that should be see (sic) inside of that classroom  
25 during classroom visits.

442

2 Q. And you testified that there are also  
3 copies of running records that are kept with the  
4 teacher?

5 A. Right, so the teacher maintains the  
6 actual running record itself - - . . .

16 A. So just to clarify, there are  
17 different intervals during the year where the running  
18 records are administered and it's been a general  
19 practice to have the most recent running record, the  
20 one administered in say May or June, move up with  
21 that student to the net (sic) grade for the following year  
22 teacher.

23 Q. And what happens with the previous  
24 running records that have been collected?

25 A. So provided that the child is not a

443

2 candidate for summer school, the teacher would  
3 discard that.

4 Q. And at the end of the school year what  
5 happens with the list of running records that you  
6 testified is submitted to the school administration?

7 A. Those are maintained over several  
8 years?

9 Q. And when you say that they're  
10 maintained over several years, is there any point at  
11 which they are discarded?

12 A. I can't say that I've ever thrown out  
13 a running record list submitted by a teacher.

On cross examination, Mr. Goodman testified

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19 Q. If you look at the fifth bullet point,  
20 it says "Beginning to look carefully at the actual  
21 running records and, in some cases, reassessing the  
22 kindergarteners identified as Level A or Level B  
23 readers." Can you please explain that -- what that  
24 bullet point was in reference to again?

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7 A. I recall the administration, along  
8 with the literacy coach, determining that it was  
9 necessary for us to take another look at the  
10 assessment data that teachers were beginning to submit  
11 and that the emphasis was on looking at the students  
12 that teachers were identifying as Level A or Level B  
13 readers to ensure that that data was, in fact,  
14 accurate.

15 Q. And you also testified that on January  
16 29<sup>th</sup>, 2012, that you expected teachers to be assessing  
17 students with running records. Is that correct?

18 A. Yes.

19 Q. Were teachers supposed to have had  
20 their running records completed by January 29<sup>th</sup>, 2012?

21 A. I recall that there needed to be  
22 evidence that the process was underway, not completed.

23 A. Okay. And on February 1<sup>st</sup>, 2012, you  
24 had opportunity to be in Ms. Legra's classroom,  
25 correct?

811

2 A. I believe that's correct.

3 Q. And you asked her to produce her  
4 running records.

5 A. Correct.

6 Q. And she didn't have them that day.

7 A. That's correct.

8 Q. Do you know if it's because they were  
9 underway or they just weren't present in the room that  
10 day?

11 A. I recall that the running records were  
12 not underway at that point.

13 Q. But your testimony earlier was that  
14 she couldn't provide you with the running records.

15 A. Right, that the running records were  
16 unavailable for review.

17 Q. But Ms. Legra did actually turn in  
18 running records at some point that year.

19 A. Probably.

20 Q. Okay. And so, the timeframe between  
21 when you were saying that teachers were expected to be  
22 working on running records and when you weren't able  
23 to see them in Ms. Legra's classroom was approximately  
24 two to three days.

25 A. I believe that's what the dates

812

2 suggest

3 Q. So, it's possible that they could have  
4 been completed on February 2<sup>nd</sup>.

5 A. Unlikely, but possible.

C. The DOE's evidence relating to supervising students in 2012 - 2013 school year in Specification "6)"[page 6, above] are DOE's 5, 19C, 20 and 21B and the testimony of Principal Boursiquot and Assistant Principal Goodman in support.

DOE 21B is a January 22, 2013 two page letter, Bates No. 65 and 66, to Respondent from Mr. Goodman relating to an observation on January 15, 2013.

It included:

You were summoned to a disciplinary conference on Wednesday, January 16, 2013 at 8:10am to discuss what I observed inside of your classroom on Tuesday, January 15, 2013. The conference addressed the issues that I observed at approximately 8:50am while I was conducting a routine instructional walkthrough of Grade 1 classrooms. Present at the disciplinary conference was the Principal, Ms. Boursiquot and your union representative.

On January 15, 2013 while on the third floor, I was immediately drawn to your classroom by the excessive noise and sounds that suggested that you were struggling to manage your 17 Grade 1 students, likely as a result of your lack of adequate planning. I looked through the window on the door of your classroom and observed chaos; students up out of their seats, at least one was running, another was demonstrating karate moves on the closet door and the majority of the students were not involved in *anything* instructional in nature or otherwise — an issue that has repeatedly plagued your tenure as a classroom teacher at P.S. 173. I attempted to locate you, the professional classroom teacher, in the room and was unable to do so. One of your students noticed me standing at the door observing the mayhem and opened the door for me so I was able to enter. At that point, I observed you "buried"



in a corner of the classroom at the computer table; out of sight from your students in a position that would make it extraordinarily difficult to observe *all* of your students properly. You were negligent in maintaining a safe classroom environment because your position in the classroom at that time prevented you from monitoring the safety and well-being of your Grade 1 students, a minimal responsibility for any teacher — even the substitute teachers that cover classes in our school on a regular basis.

Once you observed that I was inside of your classroom, you quickly left the computer table and attempted to address the many behavioral issues that were evident.

At your disciplinary conference, you stated that you were "sharpening pencils" during the time I observed your classroom. You are not permitted to abandon your authority as the adult in the classroom to engage in a task that takes you away from your students, provided you were in fact "sharpening pencils." You also alluded to the idea that the several students in your class are responsible for the lack of order that is observed inside of your classroom consistently. You should be reminded that several students were removed from your class since September 2012 because you had great difficulty in addressing their behavioral and academic needs. You are required to maintain a safe classroom environment for all students and to immediately address behavior that is deemed to be disruptive; i.e. students running or demonstrating karate moves on a closet door. Idle first graders are likely to engage in unacceptable behavior.

You have been warned repeatedly and it has been documented on several occasions over the years that your inability to manage your students for the purpose of providing a safe learning environment has been a recurring theme and needs to be your professional priority moving forward. However, you continue to fail to acknowledge this.

It was brought to my attention later in the day on January 15, 2013 that *three* students were injured later that same day while in your care. This is unacceptable. It can be concluded that these students were injured as a result of your inability to, monitor the safety and well-being of your students and by failing to engage them in meaningful curriculum and instruction or activities. During your disciplinary conference, you stated that a female student in your class, J., initiated the behavior that led to the injuries.

Please be reminded of your responsibility to maintain a safe learning environment for your Grade 1 students. Failure to comply with these directives will result in further disciplinary action, including, but not limited to, charges that may lead to termination of your employment and an Unsatisfactory rating for the 2012-13 school year.

The Respondent testified she responded to Mr. Goodman's letter on January 22, 2013, (R11)

[T.1203 L. 23-25] and "placed it in his mailbox" [T.1205 L.4].



Her letter states

On the day you entered my class room (January 15, 2013) you first stated I was on the computer. Then you said I was sharpening pencils. The morning in which I was summoned to a disciplinary hearing by you I was re-sharpening three pencils which were too sharp. To prevent any accidents I decided to re-sharpen these pencils right away. The students were walking around the room working on word activities. One of which is reading the room. In this activity during our word work period students look for words in the room which have to do with the specific teaching point for that day.

I teach a first grade class which started with many issues of behavioral disruptions. This is not only stated by me but by their former teacher, and other teachers as well. I took over this classroom in October. I currently have two children with IEP's. I do implement and practice rules on a daily basis. As a professional I do care and do provide a safe environment for my students. The safety of my students is of great importance to me. I do like to practice moving games with my students. This has been since I took over this class. Moving activities tend to help students with attention deficit hyperactivity disorder. These activities were suggested by the student's therapist. The time that you do stand by my door please take this into consideration.

I am not aware of any students being removed from my room due to my lack of meeting their behavioral or academic needs. The students which have been removed from my room are Christopher Adames; which moved to the Bronx, and Eric Montanez who was transferred to a special Education classroom due to an IEP hearing in which it was determined that due to a learning impediment Eric would advance in that special classroom. I am unaware of any other student being removed due to anything else other than what was previously stated. You mentioned in your disciplinary letter dated January 22, 2013 that students were removed from my room since September of 2012. Please let me remind you that I took over class 104 in October. I really do not know of anyone being removed prior to that.

Respondent's testimony on direct examination included

1206

19 Q. During Mr. Goodman's testimony he  
20 stated that you were behind a desk, not watching the  
21 children on January 15<sup>th</sup>, 2013. Can you please  
22 explain to us what you were doing that day?  
23 A. That day there were students preparing  
24 to go to ESL and they needed pencils. The pencils  
25 were too sharp, so I re-sharped some of the pencils

1207

2 so that they can take one with them.  
3 Q. Where is the pencil sharpener located

4 in your classroom?

5 A. On the computer desk.

6 Q. Where would have to stand in order  
7 to sharpen pencils?

8 A. Behind the desk.

9 Q. Do you recall how long you were  
10 sharpening pencils for?

11 A. Maybe a minute.

12 Q. What do you recall doing after you  
13 sharpened those pencils for the students going to the  
14 ESL class?

15 A. I had to gather them and give them  
16 their pencils and send them to their class.

17 Q. After you took care of the ESL  
18 students, do you recall what if anything you did after  
19 that with your class?

20 A. I think I gathered them on the carpet.

21 Q. Mr. Goodman also testified about the  
22 students misbehaving during that - - the time he was in  
23 your class on that date. What is your recollection of  
24 what your students were doing on that date?

25 A. On that date, I believe that was --

1208

2 January 15<sup>th</sup> was a Thursday. On Thursday we have  
3 music. We were coming from the music and the ESL  
4 teacher wanted to see the ESL students. Because we  
5 had missed the reader's workshop which was supposed to  
6 be during music; I made it up that period. Now,  
7 before we went to music there were activities that we  
8 were doing which was -- I don't recall whether it was  
9 interactive writing or word study in which students  
10 had to read the room. So I don't recall whether I  
11 finished that portion when we came back from music  
12 that we were doing prior to leaving or whether I just  
13 gathered the students back in the meeting area for the  
14 reading lesson.

15 Q. In your response letter you stated, "I  
16 do like to practice moving games with my students."  
17 Can you please explain to us what "moving games" are?

18 A. Well, especially with children that  
19 have a hard time concentrating or have a hyperactivity  
20 disorder, it's important for them to move around. So  
21 that's one of the strategies that I used with them.

22 Q. But what exactly are moving games?

23 A. For example, when I see a student is

24 exhibiting behavior, then that student will have a  
25 chance to go out to the restroom and walk around and

1209

2 walk it off by walking fast to and from the restroom.  
3 So many students in my class knew that they could just  
4 ask, that they needed that time and it would be given  
5 to them. Another activity of moving games would be as  
6 a whole class, for example jumping jacks or sometimes  
7 they would be correlated into the lesson. So  
8 different, different activities would be done.

9 Q. What if any rules are there at PS 173  
10 about using moving games?

11 A. There are none.

D. The DOE's evidence relating to lesson plans in the 2012-2013 school year in Specification "7)" [page 6 above] and DOE's 6, 19C and 20 and the testimony of Principal Boursiquot and Assistant Principal Goodman in support.

Respondent's testimony included

1211

18 Q. And you can please state for the  
19 record what you recognize Department's Exhibit 19C to  
20 be?

21 A. It is an informal observation.

1212

2 Q. And do you recall whether there was a  
3 post observation conference for this lesson?

4 A. Yes.

5 Q. And what is your recollection?

6 A. There was post observation  
7 conference on February 4<sup>th</sup>.

8 Q. Mr. Goodman has testified that you did  
9 not come to the post observation conference. Do you  
10 recall whether you went to the post observation  
11 conference?

12 A. Yes, I do.

13 Q. Okay, and what is your recollection?

14 A. There was a phone call to my room from  
15 Mr. Goodman stating that there was a post observation  
16 conference. I was really confused because I don't  
17 know what he was referring to because I was supposed  
18 to have a pre-observation conference which never

19 occurred. So I asked him about it and he hung up the  
20 phone. At that time, I went to my union  
21 representative and explained to him what was  
22 happening.

23 Q. And you recall what if anything  
24 your union representative said in response?

25 A. Yes.

1213

2 Q. And what was that?

3 A. He said I had to attend the  
4 conference.

5 A. And then did you attend the  
6 conference?

7 A. There wasn't enough time from when I  
8 was called to when I had to pick up the class.

9 Q. When if ever did Mr. Goodman try to  
10 reschedule the post observation conference?

11 A. He did try. He tried during the other  
12 informal observation.

13 Q. Okay.

1224

4 Q. ...

5 ...On page three of  
6 Department's Exhibit 19C the bottom bullet point says,  
7 "The share you attempted to facilitate at the end of  
8 independent reading." What is your opinion of what a  
9 share is that context?

10 A. A share is part of the -- of the readers  
11 and writers workshop where after the mini-lesson and  
12 after the independent work and after the last part of  
13 the lesson is to gather the students back again and do  
14 a big share of whatever skill was practiced or  
15 whatever they were doing. And that's a typical share.

16 Q. And how do you facilitate a share?

17 A. Well, you look for an example of  
18 someone that had done either needed work or excelled  
19 in what they were supposed to do. You catch an  
20 example that you want to share with everyone else to  
21 reinforce what was learned that day.

22 Q. And Mr. Goodman characterized your  
23 questioning of the student as that you "grilled the  
24 student with a line of questioning." Can you please  
25 state your recollection if any about what happened

1225

2 with your interaction with a student?

3 A. Well, this particular student really  
4 did not--was, very--was very quiet, did not  
5 share, did not speak at all. And one of the worries  
6 of the mom was that in the report card was that he  
7 develops this thoughts and, pardon, and with the class  
8 he gives his thoughts out. And he would never get a  
9 satisfactory mark on his report card. So I tried--  
10 this particular child I tried to get him to speak, get  
11 him to speak, to give his opinion in class discussion.  
12 That was something that was talked about with the  
13 parent.

14 Q. Do you agree with Mr. Goodman's  
15 assessment that you grilled the student?

16 A. No.

17 Q. And what purpose if any is there in  
18 asking a student questions about recent activity that  
19 they just did?

20 A. To reinforce the activity with this  
21 particular child to get him to interact more, to give  
22 his opinion in class discussion during the lesson.

1226

2 Q. In asking a student questions, what if  
3 anything does that do to aid in your assessment of a  
4 student?

5 A. Of this particular student?

6 Q. Well, in general and then...

7 A. In general, you would get a response  
8 and you would see what their area of thinking is and  
9 if there was a deficiency or there was something you  
10 needed to work at.

11 Q. And with this particular student what  
12 if anything about asking him questions helped you aid  
13 an assessment of the student?

14 A. Well, if it gave me the opportunity to  
15 see whether or not he was developing the--let going of  
16 the shyness and developing a talk in class  
17 discussion, to be able to speak...

23 Q. ...

24 ...Mr. Goodman also references in

25 ...Department's Exhibit 19C on

1227

2 page five that your cellphone rang while he was in the  
 3 classroom. Do you recall whether this happened?  
 4 A. Yes.  
 5 Q. And what is your recollection?  
 6 A. Well, I usually put the alarm on to  
 7 let us know that we have to move on to another lesson.  
 8 And students were accustomed to hearing the alarms on  
 9 my phone knowing that this activity would be coming to  
 10 an end. It was not ringing, it was the alarm.  
 11 Q. When if ever do you use your cellphone  
 12 to call people during the school day?  
 13 A. I usually call parents on my phone.  
 14 Q. When would be an appropriate time for  
 15 you do that?  
 16 A. During lunch time or during my  
 17 professional period.  
 18 Q. When if ever would you use your cell  
 19 phone to call people during instructional time?  
 20 A. In case of an emergency.  
 21 Q. Is there any other reason why you  
 22 would, other than an emergency, that you would call  
 23 someone during a class?  
 24 A. No.  
 25 Q. Other than in an emergency, is there a

1228

2 reason why you would answer your cellphone during  
 3 instructional time?  
 4 A. No.  
 5 Q. In the third paragraph on Department's  
 6 Exhibit 19C, page five, third paragraph, there is a  
 7 sentence starting,..."We will  
 8 continue to provide ongoing intensive professional  
 9 development to you." What is your recollection of the  
 10 intensive professional development that was provided  
 11 to you prior to this day?  
 12 A. I believe Ms. Francisco [phonetic]  
 13 came in to do a demonstration lesson sometime in  
 14 February. I remember it was prior to this -- to this  
 15 date.  
 16 Q. Do you recall whether you had any  
 17 professional development other than grade level  
 18 professional development at this time?  
 19 A. Yes.  
 20 Q. And what is your recollection

21 regarding that?

22 A. There was none.

23 Q. Also on page three of Department's

24 Exhibit 19C in the --at the top of the page there's a

25 sentence that starts with, "What I observed..." Mr.

1229

2 Goodman wrote, "What I observed over roughly a class

3 period inside of room 314 prompted me to request your

4 lesson plans. You were unable to produce a cohesive

5 set of plans that outlined your day." Do you recall a

6 time previous to this date where you provided Mr.

7 Goodman with your lesson plans?...

15 Q. What if any is your recollection about

16 providing Mr. Goodman with your lesson plans prior to

17 this date?

18 A. I remember I had to leave early in

19 January and I left him the lesson plans because he was

20 the one that took over my classroom when I left early.

21 Q. And when was that in January?

22 A. January 31<sup>st</sup>.

23 Q. And at that time what exactly did you

24 provide to Mr. Goodman?

25 A. I left him a marble notebook with my

1230

2 plan.

3 Q. ...

4 ...What if anything do you recall about Mr.

5 Goodman returning that notebook to you?

6 A. He did not return it.

7 Q. And can you please state again for the

8 record the date that Mr. Goodman performed this

9 informal observation?

10 A. February 1<sup>st</sup>, 2013.

11 [Pause]

12 Q. ...

13 When if ever did you request the lesson plans back

14 from Mr. Goodman?

15 A. I requested them the day I returned,

16 maybe February 1<sup>st</sup>.

17 Q. Do you recall memorializing that

18 request into writing?

19 A. Yes, it was through email.

1231

11 Q. And can you please state for the  
12 record what you recognize Respondent's Exhibit 7 to  
13 be?

14 A. It is an email from myself to Mr.  
15 Goodman.

16 Q. And do you recognize the subject to  
17 that email?

18 A. Yes.

19 Q. And is this the memorialization of  
20 your request to -- is Respondent's Exhibit 7 the  
21 memorialization of your request for your notebook back  
22 from Mr. Goodman?

23 A. Yes, it is.

1233

6 Q. Okay. Is Respondent's Exhibit 7 the  
7 only request that you made to Mr. Goodman for the  
8 notebook back, to get the notebook back?

9 A. No, I'm sorry. I do recall he -- the  
10 day he came in for the informal observation, I did ask  
11 for my notebook.

12 Q. And how did you ask?

13 A. I asked Mr. Goodman if he could please  
14 return them to me.

15 Q. Was it -- was it in an oral request?

16 A. It was an oral request?

17 Q. And what if anything did Mr. Goodman  
18 respond to you?

19 A. He said that he did not have them.

20 Q. And, with respect to the email that is  
21 contained in Respondent's Exhibit 7, what if anything  
22 do you recall about Mr. Goodman replying to that  
23 email?

1234

8 A. No, he did not...

20 ...What if anything did Mr. Goodman say to you  
21 regarding an informal observation after the informal  
22 observation that occurred in February 1<sup>st</sup>, 2013?

23 A. He did not.

1235

7 A. It's an email from myself to Mr.  
8 Goodman dated Monday, February 4<sup>th</sup>, 2013.